

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
BEFORE THE HONORABLE LARRY R. HICKS, DISTRICT JUDGE

ORACLE USA, INC., a Colorado :  
corporation; ORACLE AMERICA, :  
INC., a Delaware corporation; :  
and ORACLE INTERNATIONAL : No. 2:10-cv-0106-LRH-PAL  
CORPORATION, a California :  
corporation, :  
:  
Plaintiffs, :  
:  
vs. :  
:  
RIMINI STREET, INC., a Nevada :  
corporation; and SETH RAVIN, :  
an individual, :  
:  
Defendants. :  
:

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TRANSCRIPT OF JURY TRIAL - DAY 8  
(Pages 1354 through 1638)

September 23, 2015

Las Vegas, Nevada

Court Reporter: Donna Davidson, RDR, CRR, CCR 318  
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1 LAS VEGAS, NEVADA, SEPTEMBER 23, 2015, 7:54 A.M.

2 --oOo--

3 P R O C E E D I N G S

4  
5 (Outside the presence of the jury.)

6 THE COURT: Have a seat, please.

7 The record will show that we are convened in  
8 open court. The jury is not present, counsel and parties  
9 are, and I'm advised that there was an issue that counsel  
10 wanted to address.

11 Mr. Hixson, go ahead, please.

12 MR. HIXSON: Good morning, Your Honor.

13 There are three issues that we would like to  
14 bring to the Court's attention before the jury is brought  
15 in today, one of which we ask for a ruling on as soon as  
16 possible this morning, and the other two we would like to  
17 bring to the Court's attention so that they can be  
18 addressed at a time that's convenient for the Court today.

19 THE COURT: Okay.

20 MR. HIXSON: And the first, as the Court may  
21 recall, a dispute between the parties concerning some  
22 customer depositions where customers were asked if you had  
23 known X, would you have contracted with Rimini for support,  
24 and the Court ruled that those questions were admissible  
25 but then invited the parties to submit a limiting

1 instruction to the Court.

2 The parties met and conferred --

3 THE COURT: Let me cut to the chase. I reviewed  
4 all of that, and I will give the limiting instruction  
5 substantially in the form submitted by plaintiffs.

6 MR. HIXSON: Okay. Thank you, Your Honor.

7 The other two issues, which don't need to be  
8 resolved right now but sometime today, are defendants have  
9 certain objections to deposition testimony by Rimini Street  
10 employee Mr. Grigsby that Oracle wishes to play at some  
11 point today, and so perhaps on a break, or over the  
12 midmorning break, we could bring those to Your Honor's  
13 attention and discuss the merits of those, because we would  
14 like to play that deposition, but at some point later  
15 today.

16 THE COURT: We'll look for an opportunity on  
17 that, and if I don't remember, remind me.

18 MR. HIXSON: Sure thing.

19 And the last issue is that -- and this is not  
20 something from our perspective needs to be resolved today,  
21 and defendants can speak up if they disagree.

22 There are a number of exhibits where -- the  
23 Court may recall the ruling on the motion in limine that  
24 the at-risk reports where there were customer statements,  
25 and Oracle has proposed certain redactions for statements

1 that we believe are either irrelevant or hearsay, and  
2 Rimini disagrees with those.

3 And so we've met and conferred, and the sides  
4 have picked 12 exemplars each that -- rather than burden  
5 the Court with hundreds of individual examples -- and we  
6 would welcome the chance to discuss those with Your Honor  
7 to receive guidance on those so that we could apply the  
8 Court's ruling on other proposed redactions.

9 And, again, I don't think that needs -- perhaps  
10 after 2:00 today we could discuss those issues with the  
11 Court.

12 THE COURT: Okay. Well, if each side could give  
13 me their set of 12, or someone give me the set of 24 so  
14 that I can take a look at those before we start argument  
15 concerning that, that would be helpful.

16 MR. HIXSON: Okay. And we might want to submit  
17 a short written statement --

18 THE COURT: And that's fine. Whatever you have.

19 And I don't know that I need all 24, just an  
20 example of two or three on each side is really all I need.

21 MR. HIXSON: We were suspecting that even two  
22 dozen might be more than the Court might want, but --

23 MR. WEBB: Hold on a second. We have 12?

24 MR. HIXSON: I thought you guys had 12 and we  
25 had 12, exemplars, not total. Some of ours were some of

1 yours.

2 MR. WEBB: Okay. And then you're submitting a  
3 written submission along with yours?

4 MR. HIXSON: I think we can meet and confer and  
5 have a joint submission where we each state our position,  
6 if that's okay.

7 MR. WEBB: You want to do that when, today?

8 MR. HIXSON: You're proposing to use the  
9 exhibits, not us.

10 MR. WEBB: Let's see if we can get together at  
11 the first break and do something.

12 MR. HIXSON: Sure. Thank you.

13 THE COURT: Well, do your best on it, and, like  
14 I say, still give me a sample of what you're talking about.

15 When you have a chance, just give it to Dionna,  
16 and I'll take a look, hopefully have some sense of where  
17 we're going with it, and I guess that's it.

18 MR. HIXSON: Thank you.

19 THE COURT: All right. Okay. I'll step out of  
20 the courtroom because I need to pick up that cautionary  
21 instruction.

22 MS. CHUANG: Your Honor, I wanted to introduce  
23 myself.

24 THE COURT: I'm sorry.

25 MS. CHUANG: My name is Annie Chuang, and I'll

1 be doing some of the questioning today.

2 THE COURT: Thank you for doing that.

3 MS. CHUANG: Sure.

4 THE COURT: I appreciate it. Will you be doing  
5 some of the questioning with the first witness?

6 MS. CHUANG: I will.

7 THE COURT: All right. Thank you.

8 Court will be adjourned briefly.

9 COURTROOM ADMINISTRATOR: Please rise.

10 (Recess from 7:58 a.m. until 8:05 a.m.)

11 (Jurors enter courtroom at 8:05 a.m.)

12 COURTROOM ADMINISTRATOR: Court is in session.

13 THE COURT: Good morning, everyone. Have a  
14 seat, please. I welcome you here again this morning,  
15 ladies and gentlemen.

16 The record will show that we are in open court,  
17 the jury is all present, counsel and the parties are  
18 present. And, let's see, we're at plaintiffs' next  
19 witness.

20 MR. RINGGENBERG: Good morning, Your Honor.  
21 We're going to begin with a couple of more video  
22 depositions.

23 The next is the deposition of Ms. Krista  
24 Williams, who was a Rimini Street engineer who has been the  
25 subject of testimony.



1           There's a short list of documents I want to  
2 cover and make sure we're all agreed that they're admitted.

3           THE COURT: All right.

4           MR. RINGGENBERG: The three that I believe were  
5 previously admitted are Plaintiffs' 57, 50 -- Oops, sorry.

6           COURTROOM ADMINISTRATOR: Yes.

7           MR. RINGGENBERG: 58 and 343.

8           COURTROOM ADMINISTRATOR: Yes, by stipulation.

9           MR. RINGGENBERG: And then we have two more to  
10 move into evidence, and that's Plaintiffs' 324 and 345.

11          MR. RECKERS: No objection, Your Honor.

12          THE COURT: All right. They are admitted.

13          (Plaintiff's Exhibits 324, 345 received into  
14 evidence.)

15          MR. RINGGENBERG: And this video is about 27  
16 minutes long.

17          THE COURT: All right. Mr. Ringgenberg, would  
18 you mind just advising the jury who is the individual in  
19 this video and how she's related to defendants.

20          MR. RINGGENBERG: You bet. Ms. Williams,  
21 Ms. Krista Williams, is a Rimini Street employee at the  
22 time of the deposition, and she is a PeopleSoft  
23 environments engineer.

24          And could we have the video --

25          THE COURT: Thank you. Go ahead, please.

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(Videotape deposition of Krista Williams  
played as follows:)  
PAGE 7:06 TO 7:20 (RUNNING 00:00:38.316)  
"BY MR. RINGGENBERG:  
Q. Good morning, Ms. Williams. Do you work  
at Rimini Street?  
A. Yes.  
Q. How long have you worked there?  
A. Since August 2007.  
Q. And before that, did you work at  
TomorrowNow/SAP?  
A. Yes.  
Q. How long did you work there?  
A. I joined there in 2005.  
PAGE 8:18 TO 8:22 (RUNNING 00:00:12.498)  
Q. What positions have you had at Rimini  
Street?  
A. For a time I was the manager of the  
PeopleSoft environment team. And I am  
currently a member of the PeopleSoft  
environment team.  
PAGE 9:03 TO 9:10 (RUNNING 00:00:20.178)  
Q. And were you the manager of the PeopleSoft  
environment at the time you joined in 2007?

1 A. Yes.

2 Q. And when did you transition to your  
3 current position?

4 A. 2010. Beginning of 2010. I'm not sure of  
5 that date because I was not formally informed  
6 of the transition.

7 PAGE 9:22 TO 10:13 (RUNNING 00:01:25.129)

8 Q. What does the PeopleSoft environment team  
9 do?

10 A. We assist PeopleSoft support engineers  
11 with technical questions which they field  
12 from customers. We build PeopleSoft  
13 environments for the support of Rimini Street  
14 PeopleSoft to development. And we support  
15 those environments should issues arise with  
16 them during their use by PeopleSoft  
17 development or PeopleSoft supporting  
18 engineers or testing personnel or other  
19 Rimini Street employee users.

20 Q. What is an environment, in that sense?

21 A. A colloquialism which we, I think, have  
22 taken into use to mean a running or a  
23 PeopleSoft application consisting of the file  
24 system, PeopleSoft file system, and the  
25 attendant database as well as supporting

1           third-party components required to make all  
2           of the pieces work together and talk  
3           together.

4           PAGE 12:11 TO 12:25 (RUNNING 00:00:40.398)

5           Q. But at Rimini Street, it's typical for the  
6           database software and the PeopleSoft software  
7           to reside on the same virtual machine; is  
8           that correct?

9           A. In most cases, yes.

10          Q. Some -- but there are a variety of  
11          database applications that are used for this  
12          purpose; is that correct?

13          A. Yes.

14          Q. Oracle Database is used sometimes,  
15          correct?

16          A. Yes.

17          Q. DB2 is used sometimes, correct?

18          A. Yes.

19          Q. Microsoft Sequel Server is used sometimes;  
20          is that right?

21          A. Yes.

22          PAGE 17:01 TO 17:16 (RUNNING 00:01:01.348)

23          Q. How were the PeopleSoft environments at  
24          Rimini Street built?

25          A. It would depend on the VM. There were a

1           number -- on a particular environment, there  
2           were a number of ways for the individual --  
3           for environments to be built.

4           Q. What are those different ways?

5           A. An environment could be -- could be -- we  
6           call it could be cloned. It would be built  
7           from sort of see files from another existing  
8           environment. It could be reconfigured. Or  
9           it could be -- from an environment provided  
10          to us in whole by a customer. An environment  
11          could be installed from installation. It  
12          could be built using installation media and  
13          configured. Ultimately, those are the three  
14          primary ways.

15          PAGE 17:17 TO 18:17 (RUNNING "00:01:19.515)

16          Q. You could build it from installation  
17          media. Would that be a from-scratch install;  
18          is that what you call it?

19          A. Yes. I think that would be a fair  
20          description.

21          Q. And you -- a customer might send you a  
22          copy, an installed copy. I think that was  
23          the way number two you described?

24          A. Yes. They could provide to -- typically  
25          they would provide to Rimini Street the

1           onboarding team. Usually not me directly.  
2           They would provide the files, a copy of the  
3           database, a database export, and perhaps some  
4           installation media, depending on the  
5           particular circumstances. But they would  
6           provide an environment, provide a copy of  
7           their running environment for us to  
8           manipulate, reconfigure to work on our  
9           server.

10          Q. For PeopleSoft applications, is the  
11          primary file structure under the PS home  
12          directory?

13          A. Yes.

14          Q. And when a customer would provide you with  
15          an environment, would they typically provide  
16          you with some archive copy of the PS home  
17          folder?

18          A. By archive copy, do you mean a copy?

19          Q. Sure.

20          A. Yes.

21          PAGE 24:24 TO 25:14 (RUNNING 00:00:41.507)

22          Q. Well, when you started in 2007 what was  
23          the method at that point?

24          A. At that point in time, there was a  
25          collection -- the media was collected in a

1 library of sorts. A single location,  
2 roughly.

3 Q. So there was a network share that was  
4 referred to as a software library; is that  
5 right?

6 A. Yes.

7 Q. And that soft -- that network share  
8 contained copies of PeopleSoft installation  
9 CDs or DVDs?

10 A. Yes.

11 Q. And those were used by builders to create  
12 the environments that were built from  
13 scratch; is that right?

14 A. Yes.

15 PAGE 25:15 TO 25:18 (RUNNING 00:00:16.091)

16 Q. And where were those files obtained?

17 A. Those files were obtained from customer  
18 installation media provided by customer.  
19 Customer, yeah.

20 PAGE 25:19 TO 25:20 (RUNNING 00:00:03.832)

21 Q. Were any of those files downloaded from  
22 eDelivery?

23 PAGE 25:25 TO 26:01 (RUNNING 00:00:07.828)

24 THE WITNESS: Sorry. I -- I don't know where  
25 they all came from.

1 PAGE 28:14 TO 29:05 (RUNNING 00:00:55.027)

2 So starting in 2009 or 2010, a change was  
3 made, and at that point, environment builds  
4 were supposed to be built using only copies  
5 of the specific media that that particular  
6 client had provided; is that right?

7 A. Yes.

8 Q. But between 2007 when you joined Rimini  
9 Street in either 2009 or 2010 from build --  
10 from-scratch builds used media provided by  
11 whatever source that was found in the  
12 software library; is that right?

13 A. No. It would be not accurate to say  
14 whatever source was in there. New customers  
15 would have new requirements that media would  
16 not be available in the that source. So the  
17 media from that customer would be -- we would  
18 request that be loaded up so we could use it.

19 PAGE 29:06 TO 29:19 (RUNNING 00:00:40.992)

20 Q. So if a -- if a customer came on board and  
21 the software they needed was not in the  
22 library, you would get it from the customer  
23 and put it in the library; is that right?

24 A. The software from the customer was  
25 collected regardless of need. So if there



1           was a need, it would be copied to the network  
2           so it would be accessible.

3           Q. Into the software library share?

4           A. Yes.

5           Q. And the next customer in line that needed  
6           the same software, you used what was in the  
7           library, right, rather than copy it over?

8           A. Yes. Rather than have it loaded from the  
9           storage, yes.

10          PAGE 33:02 TO 33:07 (RUNNING 00:00:27.188)

11          Q. To your recollection, when you came on  
12          board in 2007, did the software library have  
13          a generally complete collection of the  
14          PeopleSoft Financials and PeopleSoft HR  
15          software installation media that was then  
16          available?

17          A. The applications, yes.

18          PAGE 33:08 TO 33:19 (RUNNING 00:00:25.277)

19          Q. When you say --

20          A. To the best of my recollection.

21          Q. When you say applications, are you -- what  
22          are you distinguishing that from?

23          A. I remember there not being many  
24          PeopleTools. I remember us having to look  
25          for the PeopleTools, those being the most

1 frequent...

2 Q. Meaning if you had an installation and you  
3 needed a particular PeopleTools version and  
4 it wasn't in the library, you would have to  
5 ask someone to go copy it over, right?

6 A. Yes.

7 PAGE 37:21 TO 38:02 (RUNNING 00:00:26.728)

8 Q. And in 2009, is it correct that the  
9 software library was stored as a subfolder of  
10 the internal software folder on Rimini  
11 Street's server?

12 A. To the best of my recollection, that is  
13 the path. It mutated over time. So it -- I  
14 imagine in March of 2009, it stands to reason  
15 that this was the repository location, the  
16 library location.

17 PAGE 39:15 TO 39:21 (RUNNING 00:00:17.783)

18 Q. Sure. So but does this process, that is,  
19 where you look in the library and see what's  
20 there, figure out what you need, and then ask  
21 someone to load on anything that's not  
22 already there that is needed for the build --  
23 was that generally how the process worked  
24 from 2007 through 2009?

25 A. Yes.

1 PAGE 45:06 TO 45:23 (RUNNING 00:00:56.726)

2 Q. I mean, is there any reason that people at  
3 Rimini Street would care whether it was  
4 obtained from eDelivery or copied from a CD  
5 provided by the client?

6 A. The particular method would not matter to  
7 the environments team, so long as it was the  
8 customer's media in one form or another.

9 Q. What do you mean by the customer's media?

10 A. The eDelivery would have been -- I guess  
11 so long as it was downloaded on behalf of the  
12 customer using the customer's permission, the  
13 customer's ID, or if the CD came from the  
14 customer. And at that time, we wouldn't have  
15 distinguished. It would not have made a  
16 difference.

17 Q. Then once it was in the library, it was  
18 available for use for any client that had the  
19 same media?

20 A. If the customer was licensed and had  
21 provided a copy to us in storage, offsite  
22 storage.

23 PAGE 54:03 TO 54:15 (RUNNING 00:00:45.426)

24 Q. So on this form, there's a box for  
25 software media location. And is that where

1           you indicate to the builder where to get the  
2           media for this environment to the extent it's  
3           necessary?

4           A. Yes.

5           Q. And in this case, you're pointing the  
6           builder to a file path that includes  
7           internalsoftware/peoplesoft/FSCM8.9/8.9  
8           application; is that right?

9           A. Yes.

10          Q. And that's the location that we discussed  
11          earlier as referenced as the software  
12          library, right?

13          A. Yes.

14          PAGE 55:13 TO 56:17 (RUNNING 00:01:33.454)

15          Q. So in order for -- if you built the VM and  
16          you told them to look at that drive on the  
17          VM, then you had to put the contents there;  
18          is that right?

19          A. Yes.

20          Q. Where did you get the contents?

21          A. For their patches?

22          Q. Yes.

23          A. For this particular customer, I can't  
24          remember. The software -- the patches would  
25          come from a customer-specific, I believe it

1           was -- at the time it was a client archive.  
2           I can't remember the file path, but it would  
3           come from a customer-specific download  
4           folder.

5           Q. So in contrast to the install media, for  
6           patches you'd use client-specific downloads  
7           only?

8           A. As a -- as a reflection of the acquisition  
9           method, yes. They would be download.

10          Q. Why was that distinction made? Why didn't  
11          you have a central library for patches?

12          A. It would be hard to manage. There would  
13          be

14          too many patches. We'd have to build a  
15          library. It would be easier to -- for each  
16          customer to have their patches. Each  
17          customer would have different versions.

18          It would also protect against making sure  
19          that only the right customer didn't receive  
20          patches after they were supposed to, which  
21          sometimes would be needed. Problems would be  
22          uncovered, patches needed.

23          It might be a problem if somebody downloaded  
24          a patch or used a patch which was downloaded  
25          sometimes. So it was managed -- it was

1 easier managed.

2 PAGE 57:06 TO 57:14 (RUNNING 00:00:26.527)

3 Q. So is it correct that for -- from starting  
4 in 2007 when you joined, at least for some  
5 period of time, PeopleSoft maintenance packs  
6 were stored in the central non  
7 client-specific software library?

8 A. Yes.

9 Q. And they were used to build environments  
10 without regard to the source, which customer  
11 had provided that particular maintenance  
12 pack?

13 A. Yes.

14 PAGE 57:15 TO 57:18 (RUNNING 00:00:09.682)

15 Q. And at some point, that changed so that  
16 only client-specific locations were used for  
17 maintenance pack sources?

18 A. Yes.

19 PAGE 127:16 TO 127:16 (RUNNING 00:00:03.283)

20 Q. (By Mr. Ringgenberg) I offer you

21 PAGE 127:17 TO 127:17 (RUNNING 00:00:09.045)

22 Exhibit 480. Exhibit 480 is RSI-02681095  
23 through 97.

24 PAGE 127:23 TO 128:09 (RUNNING 00:00:38.929)

25 Q. And Mr. Slepko asks you a question:

1 "Krista, I'd like to better understand the  
2 process we use for building environments. Do  
3 you have any documentation you can send? I  
4 think I have a high level of understanding  
5 and want to look at some other options for  
6 how we do things. Specifically trying to  
7 understand how much more time it would take  
8 if we build each environment directly from  
9 the client's delivered software. Is it an  
10 extra day? Five days?"

11 Is the answer you provide in this email, was  
12 it accurate to the best of your understanding  
13 at the time you wrote it?

14 PAGE 128:10 TO 128:10 (RUNNING 00:00:01.222)

15 A. One moment. Yes.

16 PAGE 130:19 TO 131:18 (RUNNING 00:01:20.526)

17 Q. And does that accurately reflect kind of  
18 the spread of what it took to build  
19 environments; as few as two for an easy one  
20 with a clone source and as many as 30 for a  
21 difficult one with -- built from scratch?

22 A. The 30 days actually seems optimistic. I  
23 think it actually takes a little longer.

24 Four weeks, maybe five or six.

25 Q. For DB2 in particular?

1 A. Yes.

2 Q. So how about for, say, an Oracle, the  
3 middle child, as you put it, an Oracle  
4 Database platform, what would the build time  
5 be for a, you know, from-scratch environment,  
6 typically?

7 A. Week, two weeks.

8 Q. And if you were able to do a clone and  
9 restore method, what would it typically take?

10 A. Oh, I beg your pardon. I misunderstood  
11 your question. Your initial question was?

12 Q. So if you -- if you have an Oracle  
13 Database platform and, you know, say,  
14 PeopleSoft 8.81, what would that typically  
15 take you to build from scratch, not using any  
16 cloning?

17 A. Three to four weeks.

18 Q. And with the clone and restore method?

19 A. Week and a half.

20 PAGE 144:13 TO 144:17 (RUNNING 00:00:18.212)

21 Q. 487. 487 is RSI-04175953 through 55. Is  
22 KPEDN your Yahoo chat ID?

23 A. Yes.

24 Q. Can you tell me, what does that mean?

25 A. P-e-d-e-n, Peden, is my maiden name.



1 PAGE 163:23 TO 164:05 (RUNNING 00:00:24.502)

2 Q. And do you -- if you -- if someone asked  
3 you to do something, open an environment,  
4 help them get access to an environment in a  
5 way that you consider to be inconsistent with  
6 the policies, what's your practice about what  
7 you do?

8 A. My practice would be to correct them to --  
9 or to seek further information to make a  
10 determination or to ask for guidance.

11 PAGE 180:09 TO 180:11 (RUNNING 00:00:06.908)

12 Q. (By Mr. Ringgenberg) Can you help me  
13 understand how those practices are consistent  
14 with the stated policy of keeping client  
15 media separated?

16 PAGE 180:14 TO 181:23 (RUNNING 00:01:48.165)

17 THE WITNESS: The media that would be in  
18 these indexes, each customer would have  
19 different sets. So if they were co -- if  
20 they were merged into one location in support  
21 of one customer, the second customer wouldn't  
22 have access to information that they would  
23 not have provided.

24 Keeping this separate makes sense with the  
25 policy. The centralized location, the

1 customers themselves don't have access to  
2 that information. We manage the -- we  
3 would manage the software ourselves for  
4 support of that customer. So long as the  
5 customer proved to us or provided to us  
6 copies of that media, we were looking to  
7 manage space efficiently.

8 A customer -- or support of a customer would  
9 not -- because it would have to come to there  
10 and through the environments team, users  
11 outside of that group would not have access  
12 to -- in furtherance of one customer's needs  
13 would not have access to another customer's  
14 media in support.

15 Q. (By Mr. Ringgenberg) Was it your view at  
16 the time that as long as the customer was  
17 entitled to the file, it was okay to use it  
18 to service that customer even if that  
19 particular copy didn't come from that  
20 particular customer?

21 A. That would -- my personal opinion? That  
22 may have been my personal opinion in the  
23 past.

24 Q. And was that also your understanding of  
25 how Rimini Street's policies operated as

1 well, at least through, say, September of  
2 2009?

3 A. That was my understanding.

4 PAGE 185:20 TO 186:05 (RUNNING 00:00:31.781)

5 Q. (By Mr. Ringgenberg) Would you agree with  
6 me that the use of the centralized software  
7 library and the use of cross-customer cloning  
8 is mixing or intermingling with Oracle's IP  
9 for Rimini Street clients?

10 A. In my personal opinion, no.

11 Q. Because why not?

12 A. The software was used for one customer --  
13 was used for the customers. Each customer  
14 use was appropriate. The customer proved  
15 they had licenses for it. But that's just my  
16 personal opinion.

17 PAGE 192:14 TO 192:19 (RUNNING 00:00:54.097)

18 Q. My last question was whether you agree  
19 with me that cloning environments from one  
20 customer to another is in fact sharing  
21 software from one customer to another. Do  
22 you agree with that?

23 A. I haven't thought about it that way  
24 before. I don't know.

25 PAGE 194:07 TO 194:12 (RUNNING 00:00:19.619)

1 Q. In fact, you oversaw or personally  
2 completed a large number of clones where you  
3 used one customer's software -- one  
4 customer's environment, from whatever  
5 source it came from, and used that as the  
6 foundation to build a different customer's  
7 environment, correct?

8 A. Yes.

9 PAGE 194:15 TO 194:16 (RUNNING 00:00:04.130)

10 Q. (By Mr. Ringgenberg) Let me offer you  
11 Exhibit 503. 503 is RSI-04807259 through  
12 261.

13 PAGE 194:17 TO 195:05 (RUNNING 00:00:58.339)

14 Is this a ticket that you opened and that  
15 email exchange you had with Chris Galzote  
16 about it on January 13th, 2010?

17 A. It would appear so, yes.

18 Q. And based on the description, you --  
19 you're following up on your statement to ask  
20 you to take care of having what used to be  
21 the internal software library deleted,  
22 correct?

23 A. That appears to be the case.

24 Q. And you attached a screenshot that gave  
25 directions to IT as to what was it that you

1           wanted to delete it, right?

2           A. It looks like there's a file there. Yep.

3           I described it, there being one. So yes.

4           PAGE 199:13 TO 199:13 (RUNNING 00:00:04.248)

5           Q. (By Mr. Ringgenberg) Let me offer you an

6           PAGE 199:14 TO 199:14 (RUNNING 00:00:05.939)

7           exhibit formerly marked as Exhibit 276. 276

8           is

9           PAGE 199:21 TO 200:01 (RUNNING 00:00:10.870)

10          Q. Did you send this email to Mr. Hartson,

11          Mrs. Hartson?

12          A. The best I'm able to determine.

13          Q. And CKE is Carl Karcher Enterprises; is

14          that right?

15          A. Yes.

16          PAGE 201:02 TO 201:06 (RUNNING 00:00:09.294)

17          Q. Okay. And you see the paragraph I just

18          read that says: "We do not share software.

19          To build Carl Karcher's support environments,

20          we used Carl Karcher's software." Right?

21          A. Yes.

22          PAGE 201:07 TO 201:10 (RUNNING 00:00:12.610)

23          Q. If customers asked you, is that what you

24          told them at that time?

25          A. I can't recall each instance. But it was

1 unusual for a customer to request something  
2 like that.

3 PAGE 201:11 TO 201:19 (RUNNING 00:00:17.317)

4 Q. Do you agree with me that that's an  
5 inaccurate statement of what Rimini Street's  
6 practice was in June of 2009?

7 A. To --

8 Q. That we don't share software, and to build  
9 Carl Karcher's support environments, we use  
10 Carl Karcher's software?

11 A. Yes.

12 Q. That is, you're agreeing it's inaccurate?

13 PAGE 202:05 TO 202:05 (RUNNING 00:00:31.381)

14 A. Inaccurate. I would agree.

15 PAGE 207:13 TO 207:14 (RUNNING 00:00:02.322)

16 Q. (By Mr. Ringgenberg) Let me offer you  
17 Exhibit 505. Exhibit 505 is ROS -- I'm  
18 sorry. Long

19 PAGE 208:05 TO 208:09 (RUNNING 00:00:28.209)

20 Q. And Mr. Chiu gave you a Limited  
21 password-protected -- or password and login  
22 for MetaLink3; is that right?

23 A. That's what it looks like, yes.

24 Q. And you used that login to test Change

25 PAGE 208:10 TO 208:12 (RUNNING 00:00:07.172)

1 Assistant and how it operated, correct?

2 A. A Limited Change Assistant, according to  
3 the subject line.

4 PAGE 209:10 TO 210:03 (RUNNING 00:00:49.107)

5 Q. Okay. But in this case, the material you  
6 were downloading, are you telling me that was  
7 actually for Limited's archives, as opposed  
8 to a task of Change Assistant to see how it  
9 worked?

10 A. It would be a test on behalf of Limited.  
11 I'm using Limited, and Limited -- I don't  
12 know. I don't recall the specific  
13 conversation.

14 Q. Do you follow my question, that what I'm  
15 suggesting -- you tell me if you think I'm  
16 wrong. But what I'm suggesting is that when  
17 you were logging on and doing this work, you  
18 weren't getting this material with any  
19 expectation that Limited would get it;  
20 rather, that you were testing Change  
21 Assistant so that the next time Rimini Street  
22 had to use it, it would know how.  
23 Do you think that's right or do you think  
24 that's wrong?

25 A. Given the nature of my technical bent,

1           yes, I think that's right.

2           PAGE 210:13 TO 210:21 (RUNNING 00:00:24.580)

3           Q. And is this one you had in mind?

4           A. Nope.

5           Q. Did you -- a little further down, you say:

6           "Never been into MetaLink3. Been here since

7           early MetaLink for me."

8           Did you log onto MetaLink using that login?

9           A. No.

10          Q. How do you know that?

11          A. Because I've never been into MetaLink.

12          PAGE 228:01 TO 228:15 (RUNNING 00:01:33.319)

13          Q. (By Mr. Ringgenberg) Does Rimini Street

14          sometimes work with customers' environments

15          that are hosted on machines at its customers'

16          premises?

17          A. Yes.

18          Q. Do you call those remote environments?

19          A. Yes.

20          Q. And why does Rimini Street do that?

21          A. It could be a variety of reasons. The

22          customer prefers it that way. The customer

23          is not able to supply us with a copy of their

24          media in any form. The best I can recall,

25          those two reasons.



1 Q. And are the remote environments used for  
2 the same purposes that Rimini Street local  
3 environments are used for?

4 A. As best I know.

5 PAGE 228:16 TO 229:14 (RUNNING 00:01:15.930)

6 Q. Troubleshooting, testing, testing fixes,  
7 and updates, that's the kind of things that  
8 are done, right?

9 A. Yes.

10 Q. And are the remote environments easier or  
11 more difficult to work with than the local  
12 environments?

13 A. They are more difficult to work with.

14 Q. And do you have responsibility for --  
15 "you" meaning the environments team, have  
16 responsibility for those environments in any  
17 sense?

18 A. In some instances, yes.

19 Q. How so?

20 A. In some instances, by customers,  
21 case-by-case basis, some customers do not  
22 manage or care for, feed their systems to  
23 which they give us access; in which case  
24 we're left to administer the environment and  
25 troubleshoot if the test or the support

1 people have issues.

2 In other instances -- and this is really a  
3 gamut -- the customer, the remote  
4 environments are very tightly managed. And  
5 we may have to interact with the client  
6 remote staff in order to have changes made or  
7 to make requests.")

8 (Deposition ends.)

9 MR. RINGGENBERG: Thank you. Next we have a  
10 very short deposition video of Mr. Ronald Higa of JALPAK,  
11 which is a Rimini Street customer at issue in the case.

12 There's no exhibits. This video is under three  
13 minutes long.

14 (Videotape deposition of Ronald Higa played  
15 as follows:)

16 PAGE 7:23 TO 8:03 (RUNNING 00:00:09.158)

17 "Q. Okay. Mr. Higa, you work for JALPAK  
18 Travel; is that correct?

19 A. That is correct.

20 Q. And the full name is Japan Pacific Travel  
21 Services?

22 A. Yes, it is.

23 PAGE 8:09 TO 8:18 (RUNNING 00:00:24.166)

24 And what is your position at JALPAK?

25 A. I'm a supervisor there.

1 Q. Could you describe your responsibilities?

2 A. Yeah. I oversee the accounting -- the  
3 corporate accounting and also the JD Edwards  
4 software and operations.

5 Q. And how long have you been in that  
6 position?

7 A. I have been in that position for almost --  
8 well, about 14 and a half years.

9 PAGE 21:04 TO 21:23 (RUNNING 00:01:07.179)

10 Q. Was it important to JalPak to have a  
11 vendor or a third party provide support for  
12 your JD Edwards software?

13 A. Yes, it was.

14 Q. You did not -- did JalPak consider  
15 supporting the software on its own?

16 A. No.

17 Q. And why is that?

18 A. Because it's too much of a gamble if  
19 something goes wrong and we cannot recover.  
20 We needed someone to support us. And I did  
21 not have the hundred percent ability to  
22 handle the software.

23 Q. So is it a gamble because you -- is it a  
24 gamble because without someone to provide  
25 support, you would be nervous that if there

1 was a problem with your JD Edwards software,  
2 you might not be able to solve it?

3 A. That's correct, and would cause problems  
4 maybe with the flow of the business. We did  
5 not want that to happen.

6 PAGE 49:15 TO 49:18 (RUNNING 00:00:08.519)

7 If you had known that Rimini Street's  
8 business infringed Oracle's copyrights, would  
9 you have been willing to serve as a reference  
10 for Rimini Street?

11 PAGE 49:21 TO 50:01 (RUNNING 00:00:24.049)

12 THE WITNESS: Probably not.

13 BY MS. LOEB:

14 Q. And why is that?

15 A. Because JalPak is careful with its  
16 corporate image and we don't -- we won't  
17 tolerate illegal behavior or unethical  
18 behavior.

19 PAGE 50:09 TO 50:14 (RUNNING 00:00:15.726)

20 BY MS. LOEB:

21 Q. And if you or if JALPAK Travel had known  
22 that Rimini Street's business model involved  
23 infringing Oracle's copyrights, would you  
24 have contracted with Rimini Street in the  
25 first place?

1           A. No.")

2                   (Deposition ends.)

3           THE COURT: Ladies and gentlemen, I would  
4 caution you with regard to the nature of the questions that  
5 were just directed to Mr. Higa from JALPAK Travel.

6           When he is asked whether he would be willing to  
7 contract for services with Rimini if that customer had  
8 known certain information about Rimini's services or  
9 conduct, you should not assume from the question that the  
10 information about Rimini's services or conduct, which is  
11 contained in the question, was true or not true. That's  
12 because that's a question for you to decide when this jury  
13 finally deliberates its case.

14           So, for example, the words "copyright  
15 infringement" was used in the question. The question of  
16 copyright infringement will be a question which is before  
17 the jury.

18           So the question -- you will determine whether  
19 the question was supported by the evidence in this case  
20 when you decide whether there was a copyright infringement.

21           And the same instruction would apply to -- I  
22 don't know what the next evidence is or may be, but if you  
23 see that or hear that type of question raised again, you  
24 should recall what I've just told you.

25           MR. ISAACSON: We'll have a period again for

1 live witnesses, Your Honor.

2 Plaintiff calls Kevin Maddock of Rimini Street.

3 COURTROOM ADMINISTRATOR: Please raise your  
4 right hand.

5 You do solemnly swear that the testimony you  
6 shall give in the cause now before the Court shall be the  
7 truth, the whole truth, and nothing but the truth, so help  
8 you God?

9 THE WITNESS: I do.

10 COURTROOM ADMINISTRATOR: Please be seated.

11 Please state your name for the record and spell  
12 your name for the record.

13 THE WITNESS: Kevin Maddock; K-e-v-i-n  
14 M-a-d-d-o-c-k.

15 COURTROOM ADMINISTRATOR: Please tell us your  
16 city and state of residence.

17 THE WITNESS: San Francisco, California.

18 THE COURT: Mr. Isaacson, go ahead, please.

19 KEVIN MADDOCK

20 called as a witness on behalf of the  
21 Plaintiffs, was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. ISAACSON:

24 Q. Good morning. Mr. Maddock, my name is Bill  
25 Isaacson. I represent Oracle. I'll be asking you some

1 questions this morning.

2 A. Good morning.

3 Q. All right. You joined Rimini Street in  
4 December 2008. Do I have that right?

5 A. Yes, I did.

6 Q. And you joined Rimini Street as the senior  
7 vice-president of global sales?

8 A. That's correct.

9 Q. Now, there was some testimony earlier in this trial,  
10 I want to make sure I have this right, when you first  
11 joined Rimini Street as the head of sales, you were the  
12 only person in sales?

13 A. That's not correct, no.

14 Q. Okay. How many people were in sales when you  
15 joined, when you -- well, let me ask you this.

16 When you were senior vice-president of global  
17 sales, you're the head of sales; is that right?

18 A. That's correct.

19 Q. Okay. So when you first joined Rimini in  
20 December 2008, how many people were in sales?

21 A. There were four other individuals in the  
22 organization.

23 Q. All right. And by the end the 2011, what was the  
24 size of your sales department, if you can estimate that?

25 A. I'd estimate it to be a little bit over 20

1 individuals at the end of 2011.

2 Q. And during that period of time, you reported to Seth  
3 Ravin; is that correct?

4 A. That's correct, yes.

5 Q. And you are the senior vice-president for global  
6 sales, the head of sales at Rimini Street today; is that  
7 correct?

8 A. That's correct, yes.

9 Q. I think we just heard you traveled from California  
10 to be here. Am I right that very few of Rimini's top  
11 executives are actually based here in Las Vegas?

12 A. That's correct, yes.

13 Q. Now, as the senior vice-president of global sales,  
14 your responsibilities include getting new customers for  
15 Rimini Street?

16 A. Overall I run the organization that does that, yes.

17 Q. Okay. You also call that the head of marketing?

18 A. Is my role the head of marketing?

19 Q. Yes?

20 A. No, it's not.

21 Q. All right. Now, in addition to being the head of  
22 sales for one deposition in this case, you were designated  
23 as a corporate representative for Rimini on certain topics.  
24 Do you remember that?

25 A. I do, yes.



1 Q. Now, for those -- so when you spoke as a corporate  
2 representative for Rimini, you testified on behalf of  
3 Rimini, not just about what you knew beginning December of  
4 2008, but about some events before December 2008; is that  
5 correct?

6 A. I remember that, yes.

7 Q. Okay. And as part of your work as the head of  
8 sales, are you involved with what goes on in the Rimini  
9 website?

10 A. No, I'm not.

11 Q. All right. Do you participate in press strategy?

12 A. Not -- no, I don't.

13 Q. Okay. All right. Now, when you spoke as a  
14 corporate representative for Rimini Street before you were  
15 deposed on certain topics, in order to prepare for that  
16 deposition, you spoke to Mr. -- with Mr. Ravin?

17 A. Yes, he was one of the individuals.

18 Q. Okay. And you remember that one of the topics of  
19 that deposition in which you were speaking on behalf of  
20 Rimini Street was Rimini's communications with customers  
21 and prospective customers regarding such things as the  
22 legality of Rimini's business practices, Rimini's policies  
23 regarding Oracle's intellectual property, and the  
24 compliance of Rimini Street's business practices with the  
25 terms of license agreements with Oracle.

1 Do you remember that?

2 A. Yes.

3 Q. And you spoke to Mr. Ravin about those topics; isn't  
4 that right?

5 A. That's what I remember, yes.

6 Q. And the reason you spoke to Mr. Ravin about those  
7 topics is you were testifying under oath on behalf -- not  
8 just yourself, but on behalf of the corporation, and you  
9 wanted to get it right and testify correctly about those  
10 topics?

11 A. Yes.

12 Q. Now, at a high level, part of your job is to ensure  
13 that your sales team gives a customer certain standard  
14 messaging; is that correct?

15 A. That's correct, yes.

16 Q. Okay. And when you first started, I guess you would  
17 have been one of five people actually delivering those  
18 messages?

19 A. That would be accurate, yes.

20 Q. And you had a lot of contact with actual customers  
21 beginning in -- since December 2008?

22 A. My role tended to be more managing the sales  
23 organization. They were more on the front lines. I tended  
24 to manage their duties during the week.

25 Q. And is it fair to say that at first you had more

1 front-line contact with customers, and as your sales  
2 department has grown, your emphasis on management has  
3 increased?

4 A. I'd say that's fair, yes.

5 Q. Now, one of the ways that you ensure that your sales  
6 department has -- provides consistent messaging to sales  
7 prospects are sales FAQs, or frequently asked questions; is  
8 that correct?

9 A. That's correct, yes.

10 Q. And sales FAQs are actually written documents where  
11 you write out frequently asked questions, and then you  
12 write out answers so that your salespeople can give  
13 standard responses to those frequently asked questions?

14 A. Correct, yes.

15 Q. And you used those -- from 2008 to 2011, you used  
16 sales FAQs across products lines, including Siebel,  
17 PeopleSoft, and JD Edwards; correct?

18 A. You said 2008 to 2011. I would correct that to say  
19 it was more like 2009 to 2011 after I started.

20 Q. Okay. Fair enough. But from 2009 to 2011, you used  
21 the same set of FAQs across those product lines?

22 A. Well, the document evolved. When you say the same  
23 set, questions were added to it and responses evolved over  
24 time.

25 Q. Sure. There was an evolving document, but my

1 emphasis is on the same product line. You didn't have a  
2 different FAQ for JD Edwards, PeopleSoft, and Siebel at  
3 least through 2011; correct?

4 A. Not that I remember, no.

5 Q. And the -- is there a marketing department?

6 A. Yes, there is.

7 Q. Okay. So they -- they provide the initial draft of  
8 the sales FAQs; is that right?

9 A. They own the document. They provide the initial  
10 draft and the final draft.

11 Q. All right. So they own the document, and then the  
12 sales department adds to it; is that correct?

13 A. There's times that the sales department can add,  
14 yes.

15 Q. And Mr. Ravin is also involved in those FAQs?

16 A. It's my understanding he has -- he reviews them,  
17 yes.

18 Q. Okay. But he doesn't just review them, he gets  
19 involved in actually drafting those, doesn't he?

20 A. I believe he does.

21 Q. All right. So just to understand the process, you  
22 have these sales FAQs which provide standard messaging to  
23 clients, it begins in the marketing department, the sales  
24 department can add to it from time to time, and Mr. Ravin  
25 is also involved. Is that a fair summary?

1 A. I think that's fair.

2 Q. Okay. And those FAQs are how you provide customers  
3 with your standard messaging?

4 A. Yes. It's how our sales organization provides  
5 customers with the standard --

6 Q. Yes. I'm sorry. You, Rimini, the sales department?

7 A. Yes. Thank you.

8 Q. And the FAQs, maybe this is self-evident, but it's  
9 frequently asked questions, you're trying to decide in  
10 advance what are the most common questions that are asked  
11 by customers so that you can address them with standard  
12 messages?

13 A. I think that's accurate.

14 Q. All right. Now, your sales department -- let me  
15 talk to you about the messaging.

16 Your sales department, again from 2008 through  
17 the end of 2011, has told prospective customers that Rimini  
18 did not share data between customers.

19 A. That's correct.

20 Q. Okay. And your sales department also told  
21 prospective customers that Rimini did not share software  
22 between customers; is that correct?

23 A. That's correct.

24 Q. Okay. And if a customer asked whether Rimini Street  
25 might take a different client's software or support

1 materials and share that with another client, you would say  
2 no, you wouldn't disclose that you did that; correct?

3 A. We would not disclose that we did that because we  
4 were not aware that we did do that.

5 In addition to saying no, we would say we only  
6 operate under the bounds of your contract, we only do what  
7 your license would entail or allow.

8 Q. Okay. Let me break that down.

9 Now, when you say -- now, we're talking about  
10 the statement whether Rimini shared software between  
11 customers; right?

12 A. Yes.

13 Q. And you said "we were not aware that we did that."  
14 You're referring to this -- when you say "we" --

15 A. The sales organization.

16 Q. Right.

17 So from 2000 -- from the time you joined the  
18 company, you and, to the best of your knowledge, the rest  
19 of your sales department, had no knowledge that Rimini  
20 Street was sharing software between customers during that  
21 period?

22 A. That's correct.

23 Q. Do you have knowledge today that that was happening?

24 A. I do have knowledge based on the Court ruling in  
25 February 2014.

1 Q. Do you have knowledge based on anything Mr. Ravin  
2 has said?

3 A. No.

4 Q. All right. Do you have any awareness that Mr. Ravin  
5 has said that Rimini did share software between customers?

6 A. No, I don't have that knowledge.

7 Q. Okay. Have you ever gone -- all right.

8 Now, the other thing you said, if I can get this  
9 right, is you would tell customers that you were going to  
10 abide by their agreement; is that correct?

11 A. Yes. Our standard messaging, which was part of the  
12 FAQs, was that we have processes and controls in place to  
13 ensure that customers don't receive anything to which  
14 they're not -- to which their contract does not entitle  
15 them.

16 Q. All right. Let me make sure I understand this.

17 So, first of all, it was standard messaging to  
18 say that Rimini did not share software between customers;  
19 right?

20 A. That's correct.

21 Q. Okay. And you actually didn't know whether that was  
22 true or not?

23 A. I believed it to be true.

24 Q. But you didn't know?

25 A. When you phrase it like that, no, I didn't know 100

1 percent. I believed the FAQs that were provided to me.

2 Q. And when you said you believed it was true, you were  
3 relying on Mr. Ravin?

4 A. I was relying on the document that was given to me  
5 by my marketing department, which was the FAQs.

6 Q. Well, did you think the marketing department knew  
7 whether it was true or not?

8 A. Ultimately, yes, I did.

9 Q. Okay. You thought marketing had enough -- had  
10 enough technical -- did you -- did you think Mr. Ravin knew  
11 whether it was true or not?

12 MS. CHUANG: Objection, calls for speculation.

13 THE COURT: Sustained.

14 BY MR. ISAACSON:

15 Q. You worked with Mr. Ravin on a daily basis; right?

16 A. Yes.

17 Q. Okay. Mr. Ravin was the CEO and was the number one  
18 person in the company; correct?

19 A. Yes.

20 Q. All right. Did you have an understanding that he  
21 had a very strong knowledge of what was going on in the  
22 company?

23 A. When you say what was going on in the company, at  
24 what level? The highest levels I would understand that.

25 Q. Okay.



1       A.       Or I would believe that he would have that  
2 understanding.

3       Q.       All right. Did you have an understanding or belief  
4 that Mr. Ravin knew how your company was using the Oracle  
5 software?

6       A.       I didn't have that understanding, no.

7       Q.       So you did not know one way or the other whether  
8 Mr. Ravin had any understanding of how your company was  
9 using Oracle software; is that correct?

10      A.       I did not have any understanding of that detail  
11 level, no.

12      Q.       And you had no belief on that, that when you were  
13 saying to customers that Rimini did not share software  
14 between customers, you didn't have any belief one way or  
15 the other as to whether Mr. Ravin would have thought that  
16 was true?

17      A.       Based on the fact it was in our FAQs, which I  
18 believe was ultimately approved by him, I would believe  
19 that he felt that that was true, that they weren't sharing  
20 data.

21      Q.       All right. Were not.

22               Did you have any belief as to whether he would  
23 have known one way or another whether it actually was true?

24      A.       In thinking back, my assumption was that he would  
25 know that it was -- again, that the FAQs were true and

1 accurate.

2 Q. Now, in fact, the statement that you did not share  
3 software between customers wasn't just standard messaging  
4 to customers, it was something that you said under oath as  
5 a corporate representative in a deposition; correct?

6 A. That's correct.

7 Q. Now, at that time you made that statement under  
8 oath, did you know whether or not it was true?

9 A. I believed it to be true.

10 Q. I understand you believed it to be true, but that's  
11 not quite my question, is it?

12 Did you -- when you said it under oath, did you  
13 know whether it was true?

14 A. I'm not sure I can answer that. I mean, I believed  
15 it to be true, so I felt that it was true. I mean, did  
16 I -- I'll stop there.

17 Q. All right. Well, when you said it to customers, I  
18 think you've established that you didn't know whether it  
19 was true or not. When you said it under oath, were you  
20 relying on other people when you gave that testimony?

21 A. Yes, I was relying on what other people had told me.

22 Q. All right. And when you said that statement under  
23 oath as the corporate representative of Rimini, was one of  
24 the people you were relying on for that Mr. Ravin, who you  
25 had spoken to before the deposition?

1 A. Yes.

2 Q. And do you have any knowledge today that, in fact,  
3 during 2006 to 2011, that Rimini Street was reusing fixes  
4 and updates among clients all the time?

5 A. I don't have knowledge that that was happening all  
6 the time, no.

7 Q. You were unaware of Mr. Ravin saying under oath that  
8 your company reused fixes and updates all the time; is that  
9 correct?

10 A. I was unaware of that, yes.

11 Q. As far as you know, at least through 2011 or even  
12 2012, Rimini has never disclosed to its customers that it  
13 developed fixes in one customer's environment and shared  
14 them with other customers?

15 A. Can you repeat that, please?

16 Q. Sure. As far as you know -- again, the time period  
17 2006 to 2012.

18 A. Okay.

19 Q. Rimini has never disclosed to its customers that it  
20 developed fixes in one customer's environment and shared  
21 them with another customer?

22 A. As far as I know, that's never been disclosed,  
23 correct.

24 Q. And isn't it a fact that Rimini downloaded Oracle  
25 materials for different customers into one software library

1 for Rimini to use for customers generally?

2 A. I was made aware of that after the Court ruled in  
3 February 2014.

4 Q. So you were not made aware of that before 2012;  
5 correct?

6 A. Not that I remember, no.

7 Q. All right. So when you were making -- when your  
8 company had its standard messaging to customers, you were  
9 unaware of any information that there was a software  
10 library at Rimini at any period of time which was used for  
11 customers generally; is that correct?

12 A. That's correct.

13 Q. And were you aware that Rimini had a PeopleSoft --  
14 had PeopleSoft software in that library before it even had  
15 one customer -- even had a PeopleSoft customer?

16 A. No, I was not aware of that.

17 Q. Okay. And when you testified under oath as the  
18 corporate representative for Rimini, you were unaware of  
19 the existence of that library; is that correct?

20 A. That's correct.

21 Q. Now, I believe you said -- so just to review, the  
22 standard messaging included that you don't share software  
23 between customers, it included that you abide by the  
24 customer's license agreement.

25 I believe you mentioned that it also included

1 strict processes to secure the client's software; is that  
2 correct?

3 A. I said we had strict processes in place to ensure  
4 that customers didn't receive any software to which they  
5 were not entitled.

6 Q. All right. And so when you say "to which they were  
7 not entitled," you're referring to which they were not  
8 entitled --

9 A. Meaning licensed.

10 Q. The license agreements.

11 And you would tell, as part of your standard  
12 messaging, customers that you had procedures in place to  
13 make sure that that happened, that you weren't -- that you  
14 were complying with the license agreements; correct?

15 A. Yes, that was part of our messaging.

16 Q. Okay. And, in fact -- and if a customer asked about  
17 that, you would respond that you have those strict  
18 methodologies and processes in place to ensure that the  
19 license agreement is complied with; correct?

20 A. At a high level, yes.

21 Q. And you -- at least through 2012, you have -- to  
22 your knowledge, Rimini Street has never told a customer  
23 that you were doing anything that was not permitted by the  
24 Oracle license agreements; correct?

25 A. That's correct.

1 Q. And at least through 2012, you never knew -- and, as  
2 far as you know, the sales department did not know -- that  
3 Rimini cloned one customer environment to another; is that  
4 correct?

5 A. That's correct as well.

6 Q. And when you testified under oath as the corporate  
7 representative of Rimini, you did not know that that  
8 cloning was going on; correct?

9 A. That's correct.

10 Q. Okay. And if you were asked about cloning, your  
11 response to a customer would be that you would not allow a  
12 customer to do anything beyond what their license permits;  
13 right?

14 A. That's correct. And because I'm not a very  
15 technical person, I -- if they had further questions, I  
16 probably would have directed them to someone in my  
17 technology group.

18 Q. All right. Well, let me ask you about that.

19 What's the technology group that you're  
20 referring to?

21 A. That's our delivery -- delivery organization.

22 Q. Who is the head of that organization? I'm sorry, I  
23 don't know --

24 A. Brian Slepko.

25 Q. Okay. So Mr. Slepko's organization.

1                   Okay. So did -- were there clients from time to  
2 time who asked about your processes and whether they  
3 complied with the license agreements that you referred to  
4 Mr. Slepko?

5           A.       I'm sorry. Can you repeat that?

6           Q.       Sure. Were there clients from time to time who  
7 asked about your procedures, how they worked and whether  
8 they complied to the license agreements, that you referred  
9 to Mr. Slepko or his department?

10          A.       Did that occur?

11          Q.       Yes.

12          A.       Yes. I mean, it may have been someone in my  
13 organization that did that, but, yes, that would happen,  
14 they would have a technical discussion.

15          Q.       All right. And would you follow up to find out what  
16 Mr. Slepko was saying to the customers?

17          A.       I don't remember specifically following up myself,  
18 but my sales reps would have been on those calls to listen  
19 to them.

20          Q.       All right. Until recently you had no idea that  
21 cloning was part of the methods that you used for creating  
22 environments at Rimini Street; is that correct?

23          A.       That's correct.

24          Q.       All right. Another part of your standard messaging  
25 had to do with environments, am I right, that you would not

1 use one customer's environment for another customer; is  
2 that correct?

3 A. I don't know if that was it. I don't remember that  
4 being in our FAQs specifically about environments.

5 Q. All right. Well, did you say that your -- did  
6 Rimini Street say that your environment -- your environment  
7 will be only used for you?

8 A. I believe I was shown some emails to that -- to that  
9 point in my -- during my depositions.

10 I don't recall ever saying that myself, or I  
11 don't recall any instances where someone in my sales  
12 organization did that.

13 Q. All right. And when you came onboard in  
14 December 2008 through December 2012, you and, to the best  
15 of your knowledge, your sales department had no information  
16 or knowledge about general testing and development  
17 environments at Rimini Street that were used for multiple  
18 clients; correct?

19 A. To the best of my knowledge, no, we did not have  
20 that.

21 Q. When you testified under oath as a Rimini Street  
22 representative, and having talked to Mr. Ravin and others  
23 at Rimini Street to prepare for that, you did not know  
24 about the existence of those general testing and  
25 development environments; right?



1 A. No.

2 Q. Now, part of your standard messaging is also that --  
3 well, let me put it differently.

4 Is it your understanding that Rimini leaves it  
5 to the customer to determine what their rights are under  
6 the license agreement?

7 A. I'm sorry, can you repeat the first part, please.

8 Q. Is it your understanding that Rimini Street  
9 generally leaves it to the customer, and any customer's  
10 lawyers, to determine what their rights are under the  
11 Oracle license agreements?

12 A. That's part of our standard messaging, yes.

13 Q. All right. So part of your standard messaging is  
14 also to tell the customer "it's your job to determine  
15 what" -- "it's your job to interpret the license agreement  
16 with Oracle"?

17 A. Yes.

18 Q. Okay. And if a customer asked if it's okay to share  
19 software with Rimini Street, your typical response would be  
20 "you need to look at your own contract and make your own  
21 determination"?

22 A. Yes, and -- yes.

23 Q. All right. So help me reconcile this.

24 You have two standard messages. If a customer  
25 asks are you sharing software amongst customers, one

1 standard message is -- let me start that over.

2 If a customer asks, you know, "are you abiding  
3 by the license agreement," you would say -- one standard  
4 message is "you should look at the agreement yourself," and  
5 the other standard messaging is "yes, we are"?

6 A. We say "ultimately you need to determine what your  
7 license and agreement entitles you to do, and we will not  
8 provide anything to you that is outside your license  
9 agreement."

10 Q. All right. So that last part -- okay. The first  
11 part is "you have to make up your own mind," and the second  
12 part is "we will follow the license agreement. We will  
13 only provide you material consistent with the license  
14 agreement"; is that correct?

15 A. Yes.

16 Q. Okay. So you are both telling them "you need to  
17 interpret the agreement yourself," and, "don't worry, we're  
18 abiding by the license agreement"?

19 A. In essence, yes.

20 Q. Is Rimini's position -- between those two, is it  
21 Rimini's position that ultimately it's up to the customer  
22 to determine whether there's been a violation of the  
23 agreement?

24 A. I'm not sure what our position is on that --

25 Q. So in looking at the two things, you're saying it's

1 up to the customer, and we're obeying the agreement, you're  
2 not sure what Rimini's position is as to which one's more  
3 important or which one ranks higher?

4 A. I don't know what the company's position is on that  
5 particular question.

6 Q. And when you tell customers, or you and your sales  
7 department tell customers that Rimini is abiding by the  
8 Oracle license agreements, the sales department doesn't  
9 actually know the actual license terms; correct?

10 A. That's correct.

11 Q. Okay. In fact, you may not be aware of this, your  
12 counsel has been saying these agreements are confidential.

13 Did you have any knowledge of any of the Oracle  
14 license agreements when you said -- or your sales  
15 department said "we're obeying those Oracle license  
16 agreements"?

17 A. I'd like you to repeat that question again. Because  
18 when you say "you," are you talking to Kevin Maddock or my  
19 overall organization?

20 Q. You or your sales department.

21 Well, let me break it down.

22 A. Okay.

23 Q. Okay. When your sales department -- and we're  
24 talking this period of 2008 through, say, the end of 2011.  
25 When your sales department would say to a customer, "Rimini

1 Street is abiding by the Oracle license agreements," did  
2 your sales department have any knowledge of what was in the  
3 Oracle license agreements?

4 A. Some of them may have because they had worked at  
5 Oracle, but others may not have.

6 Q. All right. And do you know even whether the ones at  
7 Oracle had knowledge of the license agreements that they  
8 were dealing with customers about?

9 A. In general, no. There may have been some cases  
10 where -- where the customer showed parts of the license,  
11 but my salespeople shouldn't be making that determination.

12 Q. When you say your salespeople should not be making  
13 that determination, are you saying your salespeople should  
14 not be making a determination as to whether the license  
15 agreement was being obeyed?

16 A. That's right, they should not be. They're not  
17 attorneys, and it's really up to the customer to do that.

18 Q. Right. Right. So the salespeople should not be  
19 making a determination as to whether Rimini is complying  
20 with Oracle license agreements, but it should say -- the  
21 salesperson should say as a standard message to the  
22 customer, "Don't worry, Rimini is abiding by the Oracle  
23 license agreements"; is that correct?

24 A. Yes.

25 Q. I didn't ask you about -- have you said to customers

1 that the -- that Rimini is abiding by or following the  
2 Oracle license agreements?

3 A. Yeah, I would have repeated our standard messaging  
4 saying that "we have methodologies in place to ensure that  
5 you don't receive anything outside your agreements."

6 Q. And how many times do you think you've said that to  
7 customers?

8 A. Probably fewer than ten.

9 Q. And when you said -- when you said those things, did  
10 you actually have any knowledge of what was in those  
11 customer's license agreements?

12 A. Not in the specific agreements, no.

13 Q. And is it fair to say that Rimini Street would offer  
14 advice to clients about what was in the Oracle license  
15 agreements without actually knowing what was in those  
16 agreements?

17 A. I'm not aware of that, no.

18 Q. You're not aware of Rimini -- is it you're not aware  
19 of Rimini offering advice to clients about what was in the  
20 Oracle license agreements?

21 A. I was made aware of some of them in the depositions,  
22 but the question that I understood you to ask me was did  
23 that happen without us knowing what was in the agreement.

24 Q. Now, you mentioned how the FAQs evolved. I would  
25 like you to look at -- I would like you to look at in your

1 binder, this has not been admitted, 5396.

2 Any objection to the admission of this? I move  
3 to admit.

4 MS. CHUANG: No objection.

5 MR. ISAACSON: Let's put it on the screen.

6 THE COURT: It's admitted.

7 (Plaintiffs' Exhibit 5396 received into  
8 evidence.)

9 BY MR. ISAACSON:

10 Q. So you see your name on the second page, list of  
11 sales FAQs doc?

12 A. Yes.

13 Q. And this is -- this is January 5th, 2009. You  
14 joined the company December 2008, so you're quickly getting  
15 to work on the FAQs. Is that what's happening here?

16 A. Yeah, I quickly wanted to -- yes, the answer is yes.

17 Q. And I think you wrote -- this is you writing on the  
18 first page, you're writing to David Rowe in the marketing  
19 department at the bottom; right?

20 A. Yes.

21 Q. And what you're writing in the second -- you say,  
22 "Attached is the list of FAQs that I would like to have  
23 answered."

24 So you haven't written out the answers, but  
25 you've written out the questions?

1       A.       That's not completely correct.

2               What I remember about this was there was a list  
3 of FAQs that had been put together prior to my arrival at  
4 the company which I had found, and I don't recall if there  
5 were answers for them or not.

6               So I took that list, and I had my sales reps put  
7 together -- add some other questions to it.

8       Q.       The list is attached. We'll look at that in a  
9 second.

10      A.       Okay.

11      Q.       Just -- in terms of what you say to the marketing  
12 department -- in terms of what you write to the marketing  
13 department in the second paragraph,

14               "As we discussed, I would like to make answering  
15 these a TOP," all capitals, "priority particularly given  
16 the recent situation with Seth. I believe you said you  
17 would take the lead. I'm happy to help however needed, and  
18 I believe Brian is as well."

19               Brian is Brian Slepko?

20      A.       That's correct.

21      Q.       "My guess is that Seth should be fairly involved in  
22 crafting responses to these to the extent that he is able."

23               Once you came into the job, these sales FAQs  
24 were one of your top priorities; is that right?

25      A.       That's right.

1 Q. Now, we go to page 3. There's a list of questions,  
2 General Questions, and then at the bottom, Ability to  
3 Service Questions.

4 All right. Now, so as I understand it, these  
5 were questions not that you drafted but that you found, and  
6 that you -- once you took the job and you were forwarding  
7 to the marketing department?

8 A. That's what I remember them to be, yes.

9 Q. And in reviewing these, these seemed like questions  
10 you wanted to be able to have your sales department be able  
11 to answer, and so you were sending them to the marketing  
12 department; is that correct?

13 A. Yes. Yes.

14 Q. Okay. Now, let's look at 241. And if you can keep  
15 a placeholder on that, because I'm going to ask you to look  
16 at both these documents.

17 A. 241?

18 Q. Right.

19 A. Is that a tab or --

20 Q. Yeah, it's a tab.

21 Sorry. Keep your finger in 5396, that page, and  
22 now we're looking at 241 which has been admitted into  
23 evidence.

24 This is one month later, February.

25 All right. And now you have a draft -- you have



1 draft 3 of the FAQs. Do you see that?

2 A. Yes.

3 Q. And the -- if we -- and you're copied on that  
4 document. You see that?

5 A. Yes.

6 Q. All right. And then, if we turn to page 9, you'll  
7 see at the top Ability to Service Questions?

8 A. Yes.

9 Q. So that was what we saw on the previous document,  
10 Ability to Service Questions?

11 A. Yes.

12 Q. Okay. Now, let's see if we can do some flipping  
13 back and forth with this.

14 So in January you had an ability to service  
15 question, number 13, "How is Rimini Street different from  
16 TomorrowNow? Are you also in danger of being sued by  
17 Oracle?"

18 And I see that you're answering that question in  
19 February. Do you see that?

20 A. Yes, the answer under number 17?

21 Q. Yes. Exactly. It's now number 17.

22 A. Okay. Yes, I see that.

23 Q. Okay. And the second question in January was, "Is  
24 it legal for Rimini Street to provide support for software  
25 vendor products?"

1                   And you answer that in February in question 19.

2       A.       Yes.

3       Q.       And then you're asked in January, "Is Rimini Street  
4 involved and at risk with the Oracle lawsuit?"

5                   And you answer that in question 20.

6       A.       Yes.

7       Q.       In February. You answer the patches and fixes  
8 question.

9                   And then 18, "Is it legal for a third-party  
10 provider to mass download the contents of Customer  
11 Connection"?

12                   By February you decided not to answer that  
13 question; right?

14       A.       I don't see it here. When you say "you decided," I  
15 didn't decide that, if that's what you're asking. But I  
16 don't see a response to that question in this document, no.

17       Q.       And in 19, there's actually discussion of, "Oracle  
18 claiming you're illegally using Oracle intellectual  
19 property downloaded from their customer portal. Is this  
20 true?"

21                   And by February, you're not answering that  
22 question; right?

23       A.       I don't see it here, no.

24       Q.       Now, while you've got that binder, let's turn to tab  
25 56.

1                   56 has been admitted into evidence, so you can  
2 show it on the screen.

3       A.       Is it in the binder? I'm having trouble finding it.

4       Q.       Yes, tab 56.

5       A.       Five-six. Here it is.

6       Q.       Now, this is an email from Mr. Davichick. He is in  
7 the sales department; am I right?

8       A.       That's correct.

9       Q.       And he is writing to Carl Karcher whose name we've  
10 heard, they run Hardee's and other fast food  
11 establishments; correct?

12      A.       Yes.

13      Q.       This is in May 2009, so you're working at the  
14 company now?

15      A.       Yes.

16      Q.       And he says,

17                   "Your license allows anyone to work on your  
18 system as long as they stay compliant with your SLA from  
19 the vendor."

20                   SLA refers to the license agreement with Oracle,  
21 right?

22      A.       Software license agreement, yes.

23      Q.       "We will deliver work product that was created in  
24 your environments using your application source code."

25                   One of the things that he was telling the

1 customer was, what we are going to deliver to you is going  
2 to come from your environment and not someone else's  
3 environment; correct?

4 A. Correct.

5 Q. Okay. And at the time the statement was made, you  
6 don't know whether that was true or not; correct?

7 A. I don't remember if I knew -- I mean, at the time  
8 this statement was made, I would have relied on whatever  
9 our FAQs were at the time, which I believe were saying that  
10 we have processes and control in place to ensure that  
11 nothing -- you don't receive anything outside your license  
12 agreement.

13 Q. And you would have understood the same thing about  
14 Mr. Davichick, that he wouldn't have known the truth about  
15 this one way or the other, he would have been relying on  
16 the FAQs?

17 MS. CHUANG: Objection, calls for speculation.

18 THE COURT: Sustained.

19 BY MS. DUNN:

20 Q. All right. He writes, "We never share fixes or  
21 deliverables between clients."

22 That was part of your standard messaging;  
23 correct?

24 A. Part of our standard messaging was that we don't  
25 share software between clients. So I think as part of that

1 you could take that to say fixes and deliverables.

2 Q. Right. Because the fixes include software?

3 A. Yes.

4 Q. All right.

5 "And each client receives their own unique  
6 deliverables that were created in their environment using  
7 their source code."

8 That was also part of your standard messaging;  
9 right?

10 A. Yes.

11 Q. Exhibit 59. This is now a month later with Carl  
12 Karcher. This has been admitted.

13 All right. And in the second paragraph it says,  
14 "Rimini Street would not be legally able" -- well,  
15 actually, let me make sure I identify the players.

16 This is from Mr. Chiu copying Mr. Davichick.  
17 Mr. Chiu is a vice-president for onboarding. He's not  
18 involved in sales; correct?

19 A. He's not part of the sales organization, correct.

20 Q. And onboarding refers to bringing the client  
21 onboard?

22 A. Correct, getting the customer set up.

23 Q. And that also involved -- since you're getting the  
24 customer set up, you're also talking to customers?

25 A. Could be, yes.

1 Q. And so Mr. Chiu is saying,  
2 "Rimini Street would not be legally able to  
3 extend the software licenses from one client to another."

4 All right?

5 So one of the reasons that you were telling  
6 clients that you didn't share software from one client to  
7 another was you had the understanding that Rimini Street  
8 could not legally extend the software licenses of one  
9 client to another client; is that correct?

10 A. That, I believe, would have been Dennis'  
11 understanding, yes.

12 Q. All right. And he once again says,  
13 "We do, in fact, develop updates for each client  
14 independently of all other clients."

15 That was part of the standard messaging; right?

16 A. Yes.

17 Q. And that standard messaging was used, to your  
18 knowledge, not just by the sales department, but by the  
19 onboarding department?

20 A. I understand it should have been, yes.

21 Q. And, actually, let me -- the FAQs went to the sales  
22 department obviously. Did they -- weren't they used by the  
23 marketing department?

24 A. They should have been. I don't know if I can  
25 specifically comment if the marketing group used them, but

1 I think they should have.

2 Q. To your knowledge, were they distributed to the  
3 marketing department?

4 A. I believe they would have been.

5 Q. And were they distributed to the onboarding  
6 department?

7 A. I don't know.

8 Q. Do you know any other departments they were  
9 distributed to?

10 A. I don't believe we had a customer care team at that  
11 time so it wouldn't have been that. So, to my knowledge,  
12 it would have been sales and marketing.

13 Q. All right. If you could turn to tab 425. This is  
14 about the City of Flint.

15 MS. CHUANG: Your Honor, may we approach before  
16 he gets into this document?

17 THE COURT: Yes.

18 (Sidebar conference held as follows:)

19 THE COURT: All right. Speak into the  
20 microphone.

21 MS. CHUANG: With respect to this document and  
22 several documents within this --

23 THE COURT: You can speak a little louder.

24 MS. CHUANG: Okay. Thank you, your Honor.

25 With respect to this document and several

1 documents within this binder, as I flip through it, they  
2 all predate the time since Mr. Maddock joined the company.  
3 As you heard, he joined in December 2008.

4 There's several documents that are dated before  
5 that time. For instance, this 0245 is dated 10/16/2006.  
6 Mr. Maddock is not copied. Obviously he isn't there.

7 My objection to this line of questioning on  
8 documents that weren't there -- that are in the binder that  
9 wasn't -- that predate Mr. Maddock's employment, lack of  
10 foundation, lack of personal knowledge.

11 THE COURT: All right.

12 Mr. Isaacson?

13 MR. ISAACSON: The witness was the 30(b)(6)  
14 representative on this topic and testified about this  
15 document as a 30(b)(6) representative at his deposition.  
16 He is -- he spoke on behalf of the corporation.

17 MS. CHUANG: Your Honor, there's case law  
18 that -- there's case law that suggests a 30(b)(6)  
19 designation is inapplicable to issues of a witness  
20 testimony at trial, which I've brought to Your Honor. It's  
21 *Roundtree versus Chase Bank*. It's a district court opinion  
22 in the Ninth Circuit.

23 And there's also case law that suggests that  
24 just because he's a 30(b)(6) designation doesn't erase the  
25 fact that he lacks personal knowledge, and there needs to



1 be personal knowledge.

2 MR. ISAACSON: I would make clear that he lacks  
3 personal knowledge, and that he started -- and as I was  
4 about to tell him, this is before he joined the company.

5 But this was one of the topics that he spoke on  
6 behalf of the company at the deposition. He was deposed  
7 about this specific document. He gave testimony under  
8 oath.

9 And it cannot possibly be that a corporation  
10 nominates a representative who gives testimony under oath,  
11 and then they can't be examined about it.

12 MS. CHUANG: He was examined about it. They  
13 have a 30(b)(6) deposition.

14 The proper way to introduce a 30(b)(6)  
15 deposition isn't compelling a witness to come on the stand  
16 as this case suggests, but play the video deposition.

17 But I will tell you, as a corporate  
18 representative, he was prepared on a very narrow issue, and  
19 now they're trying to bring this to the case at issue.

20 MR. ISAACSON: It's not a narrow issue.

21 THE COURT: All right. This is my question of  
22 counsel. Has this been clarified in his final deposition  
23 that would have been signed off by him?

24 MR. ISAACSON: I don't know what you mean by  
25 clarified, Your Honor.

1 THE COURT: Well, I assume that his deposition  
2 was submitted to him for signature after it was prepared in  
3 transcript form; is that correct?

4 MR. ISAACSON: I assume that -- I'm sure that's  
5 correct. I don't have -- I haven't checked to see whether  
6 he signed it.

7 MS. CHUANG: I'm not sure. I assume that was  
8 correct as well.

9 THE COURT: Okay. I'm going to overrule the  
10 objection because the topic matter was specifically covered  
11 in his testimony as a 30(b)(6) witness.

12 This specific exhibit was identified, as I  
13 understand counsel's representation. The witness spoke  
14 concerning the exhibit.

15 I'm going to assume that in the standard course  
16 of things, he had an opportunity to review his deposition  
17 and sign it or not sign it.

18 If there was an objection to it, or a  
19 clarification, I would assume that could have been brought  
20 to counsel's attention, certainly to the Court's attention  
21 at this time.

22 This is a fair subject matter of  
23 cross-examination -- examination of essentially an adverse  
24 witness in this case.

25 MS. CHUANG: And, Your Honor, just to be clear

1 on your ruling, I want to make sure that there's  
2 representation by plaintiffs' counsel about all of the  
3 documents that predate Mr. Maddock's employment at Rimini  
4 Street have been used with him, that he has seen them.

5 For instance, the one that's at issue right now,  
6 PTX 0245, has an exhibit number from an O'Brien deposition.

7 MR. ISAACSON: I have deposition testimony about  
8 this document right in front of me.

9 MS. CHUANG: Okay. Good.

10 MR. ISAACSON: And I won't make that  
11 representation about everything in the binder, but as I go  
12 through my examination, I'll keep an eye on this issue.

13 MS. CHUANG: Thank you.

14 THE COURT: All right. That's the Court's  
15 ruling.

16 MS. CHUANG: Thank you.

17 (Sidebar conference concluded.)

18 THE COURT: Go ahead, please, Mr. Isaacson.

19 BY MR. ISAACSON:

20 Q. Plaintiffs' Exhibit 425 which has been -- I need to  
21 move to admit this.

22 THE COURT: There was an objection to 425, and  
23 it is overruled.

24 (Plaintiffs' Exhibit 425 received into  
25 evidence.)

1 BY MR. ISAACSON:

2 Q. Let's put this on the screen. Let's click the email  
3 at the top.

4 This is an email from Mr. Chiu to the City of  
5 Flint. We talked about Mr. Chiu. This is back in 2006.  
6 This is a couple years before you joined Rimini Street?

7 A. That's correct, yes.

8 Q. So you're not around during this period of time, but  
9 you're familiar with this because you've reviewed -- you  
10 went through this document when you were doing your work as  
11 a corporate representative of Rimini Street in your  
12 deposition; is that right?

13 A. I recall that, yes. I -- yes.

14 Q. All right. And so this would have been one of the  
15 documents that, before you testified as a corporate  
16 representative, you talked about at least in general terms  
17 with other people at the company to make sure that you  
18 could give testimony on behalf of the company; correct?

19 A. Several years ago, but that sounds familiar, yes.

20 Q. And what Mr. Chiu wrote -- and you knew that City of  
21 Flint was -- even though you weren't around then, you  
22 probably know historically that was Rimini Street's first  
23 PeopleSoft client?

24 A. I knew it was one of our early ones, yes.

25 Q. And in the third paragraph, Mr. Chiu writes,

1           "As discussed earlier, we wish to create a  
2       replica of your test environment which will be used  
3       exclusively with the support of your PeopleSoft application  
4       and to enable us to perform the necessary development of  
5       the tax and regulatory updates set forth in Rimini's  
6       services."

7           Now, as of December 2008 through 2011, you  
8       didn't know one way or another whether a statement like  
9       that was true; is that correct?

10      A.     Let me read the statement again, please.

11      Q.     Sure.

12      A.     Your question again was in December of --

13      Q.     During the period you were actually working at the  
14       company, you don't know whether a statement like this is  
15       true one way or the other about the City of Flint; is that  
16       correct?

17      A.     When you say a statement that this is true about the  
18       City of Flint --

19      Q.     That they -- that Rimini Street created a replica of  
20       your test environment which will be used exclusively for  
21       the City of Flint?

22      A.     So if you're asking do I know what happened relative  
23       to the City of Flint, the answer is no, I don't.

24      Q.     Okay. And at the time of your deposition, you  
25       didn't know whether this statement was true one way or the

1 other; is that correct?

2 A. I would have believed it to be true as it was  
3 written here. But, you know, did I check it myself, no, in  
4 terms of checking their environment.

5 Q. Right. You believed it to be true, but you didn't  
6 check it. Is that what happened?

7 A. The technical side of it. I wouldn't even know what  
8 to check. I'm not a technical person.

9 Q. All right. And I understand that, but it's not that  
10 technical to say -- you're technical enough to know whether  
11 an environment is used exclusively for one customer as  
12 opposed to another. You can handle it at that level;  
13 right?

14 A. I'm not sure I can.

15 Q. Okay. And at your deposition you acknowledge that  
16 Rimini Street told this customer that the company of the  
17 customer's environment would be used exclusively to support  
18 that customer; correct?

19 A. That sounds familiar, yes.

20 Q. All right. And that was after you came onboard, it  
21 became part of standard messaging to tell customers that  
22 their environments would be used exclusively to support  
23 that customer; correct?

24 A. Yes, I think that's correct.

25 Q. And you have no knowledge, is that correct, that the

1 City of Flint's environment was then -- was then used at  
2 Rimini Street as a general testing and development  
3 environment; is that right?

4 A. That's correct. I have no knowledge of that.

5 Q. Even today, you don't know whether Rimini Street for  
6 years used the City of Flint environment as a general  
7 testing and development environment; is that correct?

8 A. That's correct, I have no knowledge of that.

9 Q. If I could ask you to turn to the first tab in your  
10 binder, number 17.

11 All right. This is --

12 MS. CHUANG: I'm sorry, Mr. Isaacson. I have  
13 the same objection to this document. May I just have a  
14 running objection? Predates his employment.

15 THE COURT: Yes, the objection is overruled and  
16 will be recognized as a continuing objection as was voiced  
17 earlier at sidebar.

18 BY MR. ISAACSON:

19 Q. All right. The -- now, this is Mr. Chiu writing to  
20 Mr. Lester, April 10th, '07, copying Beth Lester. This is  
21 before you joined the company; correct?

22 A. Correct.

23 Q. And you recognize this document as, again, another  
24 document you testified about as a corporate representative  
25 for Rimini Street; correct?

1       A.       It looks familiar, yeah. I'd have to read through  
2 the whole document, but it looks familiar.

3       Q.       Well, I can represent to you that you were asked  
4 about this at your deposition.

5       A.       Okay.

6       Q.       And this was referring to a kickoff call with  
7 Correctional Medical Services. Do you see that in the  
8 first sentence?

9       A.       I do, yes.

10      Q.       And Correctional Medical Services was one of the  
11 clients or customers of Rimini Street; correct?

12      A.       I believe they were, yes.

13      Q.       All right. And if we go down to the second to last  
14 full paragraph in the document, "The client raised a few  
15 concerns"?

16      A.       Yes, I see that.

17      Q.       All right.

18               "Client raised a few concerns about our intent  
19 to set up an in-house environment using their software."

20               And it goes on -- and it says, "because they  
21 were unclear as to why we couldn't simply develop using  
22 other environments we had for other clients."

23               I believe -- so the client was saying "why  
24 couldn't you just use one customer's environment for  
25 another?"



1           And, "It was reiterated to them that we create  
2 unique and independent environments for each client, in  
3 accordance with the terms of the use of their software  
4 license agreement."

5           Is that consistent with what became the  
6 standard -- what you understood to become the standard  
7 messaging of Rimini Street beginning in early 2009?

8       A.     Let me just read this before I answer, please.

9           Yes, I'd say that's correct.

10       Q.     And did you have -- did you have you -- when you --  
11 well, then the next paragraph talks about questioning "our  
12 need for their CC id." That would be the Customer  
13 Connection ID; correct?

14       A.     I don't know for sure, no.

15       Q.     All right. Well, let's just assume it does?

16       A.     All right.

17       Q.     "And pressed" -- and it says,

18               "pressed us to use our own CC id, whereupon it  
19 was again clarified our legal position in using their CC ID  
20 exclusively to support them?"

21               Did it become part of standard messaging at  
22 Rimini to tell customers that "when we access Oracle  
23 websites for you, we will only use your ID or password"?

24       A.     I believe that was part of our messaging, yes.

25       Q.     And when you told Correctional -- when Rimini Street

1 told Correctional Medical that they create unique and  
2 independent environments for each client, in the previous  
3 paragraph, they told Correctional Medical that's because  
4 that was in accordance with the terms of use of their  
5 software license agreement; is that correct?

6 A. I don't know if I can say that's correct because I  
7 don't know the terms of their software license agreement.

8 Q. Right. So you don't know whether there was any  
9 basis for Rimini Street to tell this customer that they  
10 were acting in accordance with their software license  
11 agreement; is that correct?

12 A. Yeah. I mean, at the time this was written, again,  
13 I wasn't there, so I don't know.

14 Q. Right. But even -- even when you were testifying as  
15 a corporate representative, even after you talked to people  
16 about what was going on in order so that you could testify  
17 truthfully for the company, you didn't have any opinion one  
18 way or the other as to whether these statements were true  
19 or not; correct?

20 A. I believed them to be true.

21 Q. You believed them to be true, but you didn't -- you  
22 didn't know one way or the other whether they were true;  
23 correct?

24 A. I did not go and check Medical Correction's IDs to  
25 see if those were the ones that were used, no.

1 Q. Okay. Let's look at Plaintiffs' Exhibit 36, which  
2 has been admitted into evidence.

3 And this is another document that predates your  
4 time at the company. This is Mr. Davichick. He's in the  
5 sales department then. You know that much; right?

6 A. Yes.

7 Q. Okay. And he's writing to Wendy's.

8 And you recognize this as a document that was  
9 discussed in your deposition when you were testifying as a  
10 representative of Rimini Street; correct?

11 A. Again, reading through it, it looks familiar, yes.

12 Q. All right. And it says at the bottom -- this is  
13 Mr. Davichick writing,

14 "Rimini Street ONLY," all capitals, "uses its  
15 client's licensed software as development and test  
16 (non-production) environments to design, develop, and  
17 support Wendy's production software."

18 Do you know what production and nonproduction  
19 means?

20 A. At a high level, I do.

21 Production, I believe, is what they're using to  
22 run their business, and nonproduction, I believe, is what  
23 they use for maybe future development.

24 Q. Nonproduction would include what's called a testing  
25 environment or develop environment?

1 A. I've heard those terms.

2 Q. All right. And you would understand the testing and  
3 development environment as being a nonproduction  
4 environment?

5 A. That's what my assumption would be, yes.

6 Q. And so this statement, that Rimini Street only uses  
7 its client's licensed software as develop and test  
8 environments to design Wendy's production software, as  
9 opposed to supporting another customer's software, you  
10 don't -- you don't -- you did not know at the time of your  
11 deposition whether that was true or not; right?

12 A. Yeah. Let me please just read this again.

13 That my answer would be similar to before. I  
14 believe this to be true. Did I check Wendy's environment  
15 or software myself, no, I didn't.

16 Q. And when you say you didn't check, that includes you  
17 didn't check when you testified under oath about what your  
18 company was doing at a deposition as a corporate  
19 representative; correct?

20 A. That's correct.

21 Q. The -- tab 4931.

22 This is Mr. Davichick again in 2007 before you  
23 joined the company, and he's writing -- he has an exchange  
24 with Mr. Ravin.

25 And you recognize that this is another document

1 again that -- before you joined the company but you  
2 discussed at your deposition as the corporate  
3 representative; correct?

4 A. Yes.

5 Q. All right. And Mr. Ravin actually is writing to  
6 Mr. Davichick about what to say to a client named Dofasco?

7 A. Yes.

8 Q. And Mr. Ravin is personally writing at the bottom --

9 MR. ISAACSON: I need to move to admit this.

10 Sorry.

11 THE COURT: It will be admitted subject to the  
12 continuing objection.

13 MS. CHUANG: Thank you.

14 (Plaintiffs' Exhibit 4931 received into  
15 evidence.)

16 BY MR. ISAACSON:

17 Q. So let's put it on the screen.

18 There's Mr. Ravin at the bottom writing to  
19 Mr. Davichick. And you can see the name Dofasco.

20 And in that paragraph below it says that -- in  
21 the -- in the second line,

22 "Rimini Street, as an independent contractor,  
23 will manage additional test and development instances of  
24 Dofasco's licensed products."

25 That's referring to Oracle licensed products;

1 right?

2 A. Yes. I would imagine it to be, yes.

3 Q. "And will not use them" -- "will not be using them  
4 in production or live status."

5 He goes on to say at the bottom,

6 "Dofasco reserves its license right to build and  
7 utilize as many test and development instances as it deems  
8 necessary to fully support its production operations, and  
9 may deploy additional test and development instances in the  
10 future."

11 He was telling Dofasco, as you understand it,  
12 that Rimini could use general test -- could use testing and  
13 development environments located at Rimini to support this  
14 customer; correct?

15 MS. CHUANG: Objection, Your Honor, the document  
16 speaks for itself.

17 THE COURT: Overruled in part. He may inquire  
18 in examination concerning the witness's understanding of  
19 the statement.

20 BY MR. ISAACSON:

21 Q. Okay. It's your understanding that Mr. Ravin was  
22 saying that Rimini could use testing and development  
23 environments located at Rimini to support this customer;  
24 correct?

25 A. Let me read it one more time, please.

1 Yes, I think that's correct.

2 Q. Now, when you joined the company, your belief, and  
3 the belief of your company, was that Oracle itself was  
4 endorsing third-party support; correct?

5 A. When I joined the company, did I believe that  
6 Oracle --

7 Q. Yeah, once you started developing the FAQs?

8 A. That was a couple weeks after I joined the company.  
9 So when you say when I joined, I meant that to believe --

10 Q. Yeah, I'm sorry. A little bit afterwards.

11 When you were working on the FAQs, you reached  
12 the understanding that Oracle's position was that it  
13 actually endorsed third-party support; right?

14 A. My understanding was that Oracle did not say  
15 third-party support was illegal. So that would be an  
16 endorsement of it, I guess.

17 Q. All right. And when you joined the company, you  
18 said you didn't work on the website. Did you review what  
19 was on the website from time to time?

20 A. I may have. I may have. I'm sure I looked at it  
21 once or twice in the early days.

22 Q. All right. Are you familiar with the Enterprise  
23 Software Observer or J. Bruce Daley?

24 A. I'm not, no.

25 Q. Now, in your conversations -- have you -- you had

1 conversations with Mr. Ravin about -- well, once you joined  
2 the company -- before you joined the company, did you have  
3 conversations with Mr. Ravin about the business plans and  
4 goals of Rimini Street?

5 A. While we were interviewing we would have had  
6 conversations to that extent.

7 Q. All right. And after you joined the company, did  
8 you continue to have conversations with Mr. Ravin about the  
9 goals of Rimini Street, how big you would grow, how many  
10 customers you would acquire, that sort of thing?

11 A. We've always stated that -- yes. The answer's yes.

12 Q. All right. During the period when you were  
13 interviewing, or when you first joined the company and  
14 through, say, 2011, at any point did you understand that  
15 Mr. Ravin believed that Rimini could take somewhere between  
16 5 and 10 percent of Oracle's customer base?

17 MS. CHUANG: Objection, calls for speculation.

18 MR. ISAACSON: I think I've established the  
19 foundation, Your Honor.

20 THE COURT: The objection is overruled.

21 THE WITNESS: Can you repeat the question,  
22 please?

23 MR. ISAACSON: Sure.

24 BY MR. ISAACSON:

25 Q. During the period when you were interviewing, or



1 when you first joined the company and through 2011, at any  
2 point did you understand that Mr. Ravin was saying that  
3 Rimini could take somewhere between 5 and 10 percent of  
4 Oracle's customer base?

5 A. Yes.

6 Q. And after a while Mr. Ravin thought you could do  
7 better, and that he was later estimating that you could  
8 take closer to 25 percent of Oracle's customer base;  
9 correct?

10 A. I don't remember that figure, no.

11 Q. Did you understand that he thought -- that after he  
12 said 5 to 10 percent, that later he thought he could do  
13 better than that; again, through 2011, 2012. I'm not  
14 asking about currently.

15 A. I don't remember specifically, but, you know, we  
16 wanted to grow a business. We -- some conversations we  
17 would state aggressive goals.

18 Q. And he would describe this to you as a multi-billion  
19 dollar opportunity; correct?

20 A. The term we always used was a billion dollar  
21 opportunity.

22 Q. Okay. Did you ever hear him talk about a bigger  
23 opportunity than \$1 billion?

24 A. I may have.

25 Q. As part of working with the sales team and the FAQs,

1 you familiarized yourself with the competition that Rimini  
2 Street faced in support; correct?

3 A. Yes.

4 Q. And you familiarized yourself with the competition  
5 that Rimini Street faced because you were out selling  
6 against other companies?

7 A. That's correct.

8 Q. And I would assume it's an important part of your  
9 management position to keep up to date with how your  
10 competitors are doing, to the best of your ability?

11 A. In a perfect world, yes, you should keep up with  
12 them.

13 THE COURT: Mr. Isaacson, I'm going to stop you  
14 here because it sounds as though you're going into another  
15 subject matter.

16 MR. ISAACSON: That's correct.

17 THE COURT: We'll take our first break for the  
18 morning, ladies and gentlemen, for approximately 15,  
19 hopefully no more than 20 minutes.

20 I remind you of the admonitions. And we'll  
21 reconvene shortly. Thank you.

22 COURTROOM ADMINISTRATOR: Please rise.

23 THE COURT: You may step down.

24 (Recess from 9:48 a.m. until 10:14 a.m.)

25 (Outside the presence of the jury.)

1 COURTROOM ADMINISTRATOR: Please rise.

2 THE COURT: Have a seat, please. We are out of  
3 the presence of the jury in the open court. Counsel and  
4 parties are present. And I'm advised counsel wanted to  
5 address something.

6 I haven't had a chance to look at those  
7 redaction issues that were described on customer responses.

8 MR. HIXSON: Your Honor, and there is a dispute  
9 about whether the documents that Rimini has provided to you  
10 are the ones to look at.

11 There are -- the parties have identified some  
12 exemplar, we proposed redactions that we are going to brief  
13 to the Court later today or tonight.

14 Oracle's objection to what Rimini has given to  
15 you is that the documents contain a number of redactions  
16 but there's no visual indicator for Your Honor which ones  
17 are the exemplars that the parties are going to ask you to  
18 rule on.

19 So we're not -- we feel what you've been given  
20 is confusing, and we're not sure what you would do with it  
21 until somebody tells you what the exemplars are.

22 We would propose that there be some sort of  
23 legend or annotation to point to you to -- this is the one  
24 we want you to look at.

25 And our other objection is the excerpt of DTX

1 154B. The real document is a large spreadsheet that has a  
2 number of columns, and we will argue that some of those  
3 columns, including references to customer names, and a part  
4 of the reason why the information is irrelevant, for  
5 example, they're irrelevant customer names, Rimini has  
6 removed all of those columns, and they've only put a  
7 handful of cells on 154B or the excerpt they've given to  
8 you, and we believe that's misleading and doesn't fairly  
9 represent the document.

10 We believe when the parties submit their written  
11 briefing, they should provide the documents as they exist,  
12 as they're real, with a notation showing what are the  
13 exemplars that we would like you to rule on, and that's  
14 just not what has been provided for your Honor today.

15 MR. GRAY: Your Honor, if I may?

16 THE COURT: Yes.

17 MR. GRAY: Michael Gray for Rimini Street.

18 Your Honor, first off this is the -- the  
19 allegation that these are irrelevant is incorrect. In Your  
20 Honor's motion in limine ruling, Your Honor pointed out  
21 that --

22 THE COURT: Okay. I don't need argument at this  
23 point because I'm not going to give you any ruling. I'm  
24 just talking about the identification issue that's been  
25 raised by Mr. Hixson.

1 MR. GRAY: Fair enough. Okay, your Honor.

2 For DTX 154B, we provided Your Honor with the  
3 cells that Oracle would like to have redacted, the  
4 redaction, and the actual print.

5 MR. HIXSON: You provided the ones you want  
6 redacted. I mean --

7 MR. GRAY: You are the only one who wants a  
8 redaction. We don't want any redaction.

9 We provided four exemplar cells of what they  
10 want to have redacted with the actual text and the  
11 redaction. Those are the ones that we thought were  
12 exemplars and that Your Honor could use as a ruling.

13 We did not include all the other cells because,  
14 as Mr. Hixson admits, this is a very large document, and  
15 the print is very small if we were to print the entire  
16 thing out.

17 We only did that as assistance to Your Honor,  
18 and we disclosed exactly which cells to Oracle last night.

19 THE COURT: Okay.

20 Mr. Hixson.

21 MR. HIXSON: We believe that when you take their  
22 cells and compare them to other columns, it will  
23 demonstrate, we will argue in our submission later today,  
24 that this information is irrelevant in addition to being  
25 admissible hearsay.

1           Also, in 154B, Rimini picked a couple of  
2           examples of redactions they want to challenge, and then we  
3           picked a couple of examples. Both sides picked 12  
4           examples.

5           They included their examples but not ours, so we  
6           will have to duplicate their submission later today with  
7           our own excerpt of 154B which we believe is insufficient  
8           and promotes confusion.

9           THE COURT: Well, the one thing that's clear to  
10          me is that it would be very helpful if the specific Oracle  
11          exhibit that you're using as an example can be tabbed with  
12          one color tab, and the similar exhibit from Rimini can be  
13          tabbed with another colored tab.

14          Actually, you could use the same colors on one  
15          and a different color or different number or something like  
16          that on the other so that I can contrast one to the other.

17          I just need to have identified in such a way  
18          that I can look at one proposal versus the other proposal.  
19          So if somehow that could be done, it would assist me, but I  
20          suspect I can tell where the parties are going just by  
21          what's been presented too.

22          I'm not trying to create a mission that's going  
23          to sidetrack the trial or counsel for that matter.

24          MR. HIXSON: That's fine with Oracle. Thank  
25          you, Your Honor.

1           MR. GRAY: And, Your Honor, I'd just like to say  
2 one more time that this is the first I've heard that  
3 there's an objection on relevance. That's why those cells  
4 were not included.

5           So Your Honor already found they are relevant,  
6 but we will be happy to file later tonight supplemental  
7 pdfs that will point Your Honor to the exact areas that  
8 there are exemplars from Rimini Street and from Oracle.

9           THE COURT: All right. You can do that.

10          MR. HIXSON: And the other issue is we had  
11 previewed this morning that there were some objections to  
12 testimony from Mr. Grigsby of Rimini Street, and we were  
13 hoping that now would be a convenient time to argue  
14 the merits of that.

15          THE COURT: Okay. Do you anticipate getting to  
16 that before the next break?

17          MR. ISAACSON: Not before the next break.

18          THE COURT: Okay. Well, let's reserve that one  
19 for the next break because I've had some other matters I  
20 had to address in chambers, and I'm really not prepared to  
21 deal with that at this time.

22          Ms. Chuang, did you have something?

23          MS. CHUANG: Thank you, Your Honor.

24          I just wanted to raise something outside the  
25 presence of the jury.

1           At sidebar Your Honor overruled my objections to  
2           the 30(b)(6) witness status of Mr. Maddock.

3           What I've seen from the questioning of  
4           Mr. Isaacson is that the status of his 30(b)(6) designation  
5           is being used in an improper way that leaves an impression  
6           on the jury.

7           As I said at sidebar, he was designated as a  
8           30(b)(6) witness to narrow topics, and I have the 30(b)(6)  
9           designation notice.

10           He was designated on Rimini's practices for  
11           providing references and Rimini's communications with  
12           customers. Those are the only two topics.

13           There were other technical topics in the  
14           30(b)(6) notice that was not his charge at his particular  
15           deposition.

16           Here the implications with the questions that  
17           have been raised is here's a sales message, did you go to  
18           the technical side, did you check with technical to see if  
19           this was accurate, did you verify the accuracy of these  
20           statements, which ultimately leaves an impression with the  
21           jury that that was part of his job duty under the guise of  
22           a 30(b)(6) witness.

23           There's nothing in his notice that is compelling  
24           him to verify the accuracy of these statements, and many of  
25           these statements, as you've seen, Your Honor, have been



1 made prior to joining of Rimini Street.

2 So that's just an issue I wanted to bring to the  
3 judge because of the impression that's being left.

4 THE COURT: All right.

5 Mr. Isaacson?

6 MR. ISAACSON: The actual 30(b)(6) topic that  
7 we're discussing is Rimini's communications with customers  
8 and prospective customers regarding:

9 A, the legality of Rimini's business practices;

10 B, Rimini's policies regarding Oracle's  
11 intellectual property;

12 C, compliance of Rimini Street's business  
13 practices with the terms of license agreements with Oracle;

14 Also, the Oracle versus SAP lawsuit in this  
15 litigation which I did not address with him.

16 He testified that he recalled those were the  
17 topics he was addressing.

18 Counsel seems to be making the unusual argument  
19 that his only job at this deposition was to explain what  
20 the company was saying and he had no responsibility for  
21 understanding whether those statements were true or not in  
22 a case about misrepresentations.

23 Now, I'm happy to address with the witness if he  
24 thought that that was his province, that his only job was  
25 to say what they say and not find out before the deposition

1 whether they were true or not.

2 I believe that that's in effect what he has  
3 said. But there's absolutely nothing improper about this  
4 line of testimony --

5 THE COURT: I've heard enough. I'll stand by my  
6 ruling on this matter. He was designated as a 30(b)(6)  
7 witness.

8 It appears as though the subject matters which  
9 were just identified certainly would fall within the scope  
10 of the examination, both at the time of deposition and at  
11 the time of this testimony, and I will allow reasonable  
12 cross-examination into that.

13 So let's bring in the jury, please.

14 COURTROOM ADMINISTRATOR: Yes, Your Honor.

15 (Jurors enter courtroom at 10:24 a.m.)

16 THE COURT: All right. Have a seat, please.

17 The record will show that we are in open court,  
18 the jury is all present, Counsel and the parties are  
19 present.

20 Ladies and gentlemen, I apologize for the  
21 extension of the break, and all I can do is reaffirm to you  
22 that I absolutely attempt to make those as minimal as  
23 possible.

24 But inevitably, in every lengthier trial, there  
25 are some issues that arise that need to be addressed by the

1 Court, and I do everything that I can to move that along  
2 quickly and also to do it before and after you're here, but  
3 still, there are occasions where I need to address  
4 something.

5 And you should draw no inference from that  
6 whatsoever, one way or the other, it's just the way we have  
7 to do our trials.

8 So at this time, we're in the course of the  
9 cross-examination of Mr. Maddock, and you may go forward,  
10 Mr. Isaacson.

11 MR. ISAACSON: Thank you, Your Honor.

12 BY MR. ISAACSON:

13 Q. Mr. Maddock, we were talking about when you joined  
14 the company, December of 2008, and how as part of your job  
15 you paid attention to what the competition was doing.

16 When you were going through the interview  
17 process, did you talk to Mr. Ravin about who the  
18 competition was?

19 A. I don't remember that, no.

20 Q. And -- but as soon as you joined the company, one of  
21 your focuses was to learn about your competition so that  
22 you could deal with it from the perspective of the head of  
23 sales?

24 A. That would have been something that I would have  
25 looked at, yes.

1 Q. Okay. And one of the things that at some point you  
2 must have quickly learned was that one of your competitors,  
3 TomorrowNow, had closed in October 2008, a month or so  
4 before you joined the company?

5 A. Yes, I was aware of TomorrowNow.

6 Q. Okay. And so at the point when you joined the  
7 company, and through -- through 2009, your view was for  
8 third-party support, you didn't have any competition from  
9 any other third-party support providers. Your only  
10 competition for Oracle support was Oracle?

11 A. Through -- the date again on that?

12 Q. From the time you joined the company through the end  
13 of 2009?

14 A. I don't recall. I believe there were a couple other  
15 small competitors.

16 MR. ISAACSON: All right. Well, let's look at  
17 PTX 5350. I'm not sure if that's been --

18 COURTROOM ADMINISTRATOR: 5350?

19 MR. ISAACSON: Which I would move to admit.

20 MS. CHUANG: No objection, Your Honor.

21 THE COURT: It's admitted.

22 (Plaintiffs' Exhibit 5350 received into  
23 evidence.)

24 BY MR. ISAACSON:

25 Q. It has very small print, so Matt's going to help us

1 out here.

2 Now, on the last page, the third page, Tim  
3 Piechowski is writing to you. Is he one of your  
4 salespeople?

5 A. He was, yes.

6 Q. Okay. And what he's talking about is what pricing  
7 to offer a customer and whether you should go below your 50  
8 percent model; correct?

9 A. That's correct.

10 MR. ISAACSON: Okay. So let's go up to the  
11 first page. And make it bigger at the top, Matt. Do  
12 the -- yeah.

13 BY MR. ISAACSON:

14 Q. Okay. So this is you writing in December 2009;  
15 correct?

16 A. Correct.

17 Q. It's right before the holidays, and you've been on  
18 the job for about a year. I've got that right?

19 A. That's correct, yes.

20 Q. Okay. So given -- you write, "Given our 50 percent  
21 off model" -- that's referring to 50 percent off of Oracle  
22 support; right?

23 A. Correct.

24 Q. "I REALLY," all capital letters "hate discounting,"  
25 and that's referring to discounting off of 50 percent off;

1 correct?

2 A. Yes.

3 Q. And the reason you really hate discounting, you're  
4 telling Mr. Piechowski, you hate discounting anything,  
5 particularly when you have no competition.

6 And when you say "discounting anything," you  
7 mean any amount below 50 percent; right?

8 A. That would be correct, yes.

9 Q. And what you're telling Mr. Piechowski is, at end of  
10 2009, your view was you had no competition, and by that you  
11 would have been referring to other third-party support?

12 A. Yeah. I mean, this email may have been referring to  
13 competition on a particular deal, not just no competition  
14 period.

15 Q. Right. But you weren't talking about competition --  
16 you didn't make reference to no competition on a particular  
17 deal, did you? You said, "I hate discounting, particularly  
18 when we have no competition."

19 A. There's no reference in this email referencing other  
20 competition on this deal, correct.

21 Q. When you mentioned the possibility of minor  
22 competitors, you had no major competitors in 2009; correct?

23 A. No, not correct.

24 Q. I'm sorry?

25 A. I said not correct. I don't agree with that.

1 Q. Who would you consider a major competitor in 2009  
2 other than Oracle?

3 A. There was a company named Spinnaker in 2009 that we  
4 competed with.

5 Q. Spinnaker was only JD Edwards; right?

6 A. From what I remember at that time, yes.

7 Q. And Spinnaker was JD Edwards only -- JD Edwards only  
8 through 2009, 2010, 2011, 2012; correct?

9 A. I don't remember the exact date that they started  
10 bringing on other products, but certainly in 2009 they  
11 would have been -- only have been JD Edwards.

12 Q. Okay. We'll go back over that a little bit later.

13 But so in 2009, you -- your view was you had no  
14 competition with respect to support of PeopleSoft, correct,  
15 other than Oracle?

16 A. There was a company named CedarCrestone that I  
17 believe was in the market in 2009.

18 Q. All right. Anybody else?

19 A. There was a company named NetCustomer that I believe  
20 said that they offered PeopleSoft.

21 Q. Did they?

22 A. We didn't see them in a lot of deals, so I don't  
23 know.

24 Q. So you didn't even know if NetCustomer was a  
25 competitor in 2009; is that right?

1       A.       They were listed on our -- from what I recall, they  
2       were listed on our FAQs as a competitor.

3       Q.       All right. That wasn't my question.

4               In 2009, you didn't even actually know whether  
5       they had any PeopleSoft customers or were actually  
6       competing; correct?

7       A.       I don't remember if they had customers or not.

8       Q.       Okay. And CedarCrestone, is it your memory that  
9       they were a competitor in 2009?

10      A.       2009 -- certainly my early days at Rimini Street.

11      Q.       But you don't know whether in 2009?

12      A.       I seem to remember them being a competitor in 2009,  
13      yes.

14      Q.       And you didn't consider them to be a major  
15      competitor, did you?

16      A.       I wouldn't say a big competitor. They showed up in  
17      deals, some deals.

18      Q.       All right. They were not a big competitor, they  
19      were just a competitor that showed up in some deals. Is  
20      that an occasional deal?

21      A.       Yeah, I would say they showed up maybe 10 percent,  
22      so not the majority.

23      Q.       So 90 percent of the time they were not showing up.

24               All right. So let's talk about Spinnaker. Now,  
25      Spinnaker -- JDE was the only product line where -- at



1 least as of 2011, 2012, JD Edwards was the only product  
2 line where Spinnaker offered Rimini any real competition;  
3 correct?

4 A. In 2011 and 2012 you said?

5 Q. Through 2011 and 2012.

6 A. That's my memory, yes.

7 Q. Okay. And so just to be clear, that meant they  
8 offered third-party support for JD Edwards, but Spinnaker  
9 did not offer third-party support for PeopleSoft or Siebel  
10 through those years?

11 A. That's correct.

12 Q. So for customers leaving -- actually, let me -- and  
13 at least as of 2009, Spinnaker itself was, in your view, a  
14 weak competitor; correct?

15 A. I don't know if I would agree they were a weak  
16 competitor. They showed up in many of our JD Edwards  
17 deals, and they beat us on many.

18 Q. Well, they were a very recent -- in the beginning of  
19 2009, they were a new entrant or very recent entrant to  
20 third-party support; correct?

21 A. That's what I call it, yes.

22 Q. And third-party support was not their main business.  
23 Their main business was supply chain and system consulting?

24 A. That was my understanding at the time, yes.

25 Q. Okay. And they had a -- they had an unproven track

1 record of support for this mission-critical software;  
2 correct?

3 A. In early 2009, I would agree with that.

4 Q. Right. And, in fact, you were aware of reports that  
5 they were having a hiring freeze in 2009?

6 A. I do remember reports to that effect, yes.

7 Q. All right. And it was your view in 2009 that this  
8 was possibly a company that wasn't going to make it, they  
9 weren't viable in the future?

10 A. We did hear some reports to that extent.

11 Q. Okay. And those were reports that you repeated to  
12 customers?

13 A. That's correct.

14 Q. Okay. And that you told your salespeople to report  
15 to customers.

16 A. Yes.

17 Q. And Spinnaker for the JD Edwards support charged a  
18 premium, an amount above the 50 percent, for  
19 customizations, interoperability and configuration;  
20 correct?

21 A. That's what I remember, yes.

22 Q. All right. So they were charging more than Rimini  
23 Street; correct?

24 A. For like-to-like services, yes.

25 Q. All right. And they would have escalation clauses

1 in their contract -- in their multiple year contract so  
2 that they could increase those prices, which is something  
3 Rimini wasn't doing; correct?

4 A. It's correct that Rimini was not doing that. I  
5 don't remember if JD -- or if Spinnaker was doing that at  
6 that time.

7 Q. And they had no track record of actually being able  
8 to provide support for tax and regulatory updates; correct?

9 A. Certainly on a global basis, I remember that being  
10 the case. In North America, I think they did provide tax  
11 and regulatory updates.

12 Q. Well, let me ask you -- all right.

13 The -- 5352, which has been admitted. Could you  
14 put this on the screen.

15 This is dated at the top April 14th, 2011, and  
16 here do you see that there's a distribution going on of the  
17 most recent FAQs?

18 A. It looks that way, yes.

19 Q. Okay. And if we can go to page 5 of 20. You see  
20 sales FAQs.

21 All right. So these are your FAQs as of the  
22 time?

23 A. They look that way, yes.

24 Q. All right. So now we're in 2011, not 2009. And if  
25 we go to page 12 of 20. All right? There's Spinnaker at

1 the bottom, JD Edwards.

2 All right. And it says the core business is  
3 systems hosting and supply chain consulting. That's what  
4 we talked about before. Support was not their core  
5 business; correct?

6 A. Yes.

7 Q. Okay. And the second bullet is about how they were  
8 charging more than you do for the same services; right?

9 A. Yes, that's correct.

10 Q. And the third bullet is about how they were  
11 increasing those prices over time?

12 A. Yes.

13 Q. All right. And then the sixth bullet, the last one,  
14 is flat or negative growth in JDE clients in the last year.  
15 So the business between -- at least from 2010 into 2011  
16 stopped growing; right?

17 A. Based on what this says here, yes.

18 Q. All right. And that -- as far as you knew, those  
19 were true statements; correct?

20 A. Yeah, I would have believed them to be true.

21 Q. Now, this is -- we talked before about things you  
22 believed to be true versus what you knew to be true.

23 With respect to statements about your  
24 competition, those are statements that you could  
25 actually -- when you made these statements, these were

1 based on your own investigation, or your sales department  
2 or sales and marketing department's investigation?

3 A. Yes, marketing department's investigation.

4 Q. You actually had a firmer grasp about whether these  
5 statements are true than the ones we were talking about  
6 earlier today; correct?

7 A. I would agree with that, yes.

8 Q. All right. The -- and by 2000 and -- so that's  
9 Spinnaker. And they were your only competitor at the  
10 beginning of 2000 -- only major competitor at the beginning  
11 of 2009. That's correct; right?

12 A. It depends how you define major. They were  
13 certainly the strongest competitor.

14 Q. The -- now, you also would tell customers that  
15 compared to Spinnaker, Rimini had a stronger management  
16 team; correct?

17 A. That's correct.

18 Q. You supported more customers; correct?

19 A. Correct.

20 Q. And that you supported customizations and  
21 interoperability at no additional cost; correct?

22 A. Yes, that's correct.

23 Q. All right. And you also -- it was the case that  
24 Rimini, as Rimini has told the jury, had a third-party -- a  
25 group within the company devoted to tax, legal, and

1 regulatory research of its own, Spinnaker did not have  
2 that?

3 A. Are you looking at --

4 Q. No, I'm not looking at that document.

5 A. Okay. Yeah, I remember that being part of our  
6 messaging, yes.

7 Q. Okay. And you understood that to be true?

8 A. I did.

9 Q. Okay. And tax and regulatory updates were important  
10 to customers; right?

11 A. Yes.

12 Q. The -- and so just to make that clear, if you're not  
13 providing tax and regulatory updates, you have the software  
14 that's doing payroll and withholding, and it's not keeping  
15 up with the current laws, so you could actually be getting  
16 all of that wrong.

17 A. That's what tax and regulatory updates do, yes.

18 Q. Right. And you also had the understanding and told  
19 customers that Rimini was rated as a strong company by  
20 major analysts, but Spinnaker had very little coverage by  
21 any analysts?

22 A. Yes, that was part of our message.

23 Q. So in terms of analysts who were following the  
24 industry, Rimini was a major company, and Spinnaker did not  
25 have a following?

1 A. You're asking if I agree with that statement?

2 Q. Yes?

3 A. They had much less of a following than we did.

4 Q. All right. And Spinnaker at some point then started  
5 losing key staff; correct?

6 A. I remember that, yes.

7 Q. Okay. And then you would go out -- you and your  
8 sales force would go out in the marketplace and tell  
9 customers that Spinnaker was losing key staff?

10 A. That did occur, yes.

11 Q. So in terms of this 2009 to 2011 period, you know,  
12 when a customer was choosing Rimini Street, it really  
13 didn't have a choice of going to Spinnaker, did it, even  
14 for JD Edwards?

15 A. I don't agree with that, no.

16 Q. Okay. If it went to JD Edwards, it wasn't going to  
17 have reliable tax and regulatory updates, it wasn't going  
18 to have effective management, it was going to be joining a  
19 company that was stagnant and who was laying off employees.  
20 All of that is true; right?

21 A. I agree with all -- I'm still not clear on the tax  
22 and regulatory updates. My understanding was that they did  
23 have tax and regulatory updates, not as much of a dedicated  
24 team that we had that you just brought up.

25 Q. All right. You believed and told customers that

1 there was a risk that they had inaccurate tax and  
2 regulatory updates; correct?

3 A. I don't remember saying the terms inaccurate. We  
4 may very well have said ours was superior, or --

5 Q. Well, when you talk about superior, I mean, tax and  
6 regulatory, you either get it right or you get it wrong,  
7 right?

8 I mean, you have to get the correct tax number  
9 in -- tax number or tax rule in there or else you've got  
10 wrong information, right?

11 A. Yeah, if the information is not correct, it would be  
12 wrong, yes, I agree with that.

13 Q. Right. So when you're saying specifically about tax  
14 and regulatory updates, and when you're saying you've got  
15 superior service, that might be a qualitative thing.

16 But when you're talking about tax and regulatory  
17 updates, you're actually talking about this other company  
18 getting it wrong; correct?

19 A. I don't recall us talking about getting it wrong.  
20 What I recall about us saying was that we had a more robust  
21 group.

22 Q. Would you -- would you say -- it is -- it is fair to  
23 say that you were saying correctly and giving the  
24 impression correctly that if you were working with an  
25 inferior provider of tax and regulatory updates, that they



1 could get it wrong?

2 A. I would say that would be a way it could be  
3 interpreted, yes.

4 Q. Now, by early 2009, you and Mr. Ravin were also  
5 talking about your opportunities to actually bury Spinnaker  
6 and put them out of business?

7 A. Yeah, I saw that email in my depositions, yes.

8 Q. All right. Well, let's look at 5432 which I would  
9 move to admit.

10 MS. CHUANG: No objection.

11 THE COURT: It's admitted.

12 (Plaintiffs' Exhibit 5432 received into  
13 evidence.)

14 BY MR. ISAACSON:

15 Q. All right. Let's look at the second page of the  
16 email.

17 Now, eventually you are -- you're actually  
18 copied on this email at the top, but this is Mr. Rowe from  
19 the marketing department writing on the second page;  
20 correct?

21 A. Yes.

22 Q. All right. You can see Mr. Rowe, and then how  
23 you're copied on that, and this is March 2009. So you've  
24 been on the job for three months or so?

25 A. Approximately, yes.

1 Q. All right. And you're looking for the -- he's  
2 looking for the Spinnaker link. He says,

3 "It's still hard to find, had to search on  
4 Spinnaker JDE support to get them to pop up, and then it's  
5 called [www.spinnakermanagement.com](http://www.spinnakermanagement.com)."

6 So he's saying it's not even easy to find them  
7 on the -- through an Internet search?

8 A. That's what it appears, yes.

9 Q. All right. Obviously still a consulting firm.  
10 That's what we were talking about before, support is not  
11 their principal business?

12 A. That's what it refers to.

13 Q. "Looks like support comes third to consulting and  
14 execution. They also don't have someone in exec staff that  
15 runs the support business."

16 They don't even have an executive that runs the  
17 support business. That's what that's saying; right?

18 A. That's what Dave's reporting there -- is that Dave  
19 or Brian reporting that?

20 Q. This is -- I believe it's Dave.

21 "Benson is listed as leading the support LOB on  
22 an interim basis."

23 So the person leading the support is there only  
24 on an interim basis, correct?

25 A. I mean, I don't know who that individual is, but

1 that's what this is stating, yes.

2 Q. And what he's reporting is that, based on the  
3 website, seems like this is a sidelight business for them  
4 still."

5 A. Yes.

6 Q. All right. Now, on the next page at the bottom,  
7 Mr. Slepko is writing to Mr. Ravin and copying you. This  
8 is again March 20th.

9 And he's reporting that based on his analysis,  
10 that Spinnaker's most likely losing money right now; right?  
11 I'm sorry, this is Mr. Ravin writing?

12 A. Yes, this is Seth writing.

13 Q. This is Mr. Ravin writing to you and Mr. Slepko, as  
14 well as his cofounder Mr. Shay, along with Mr. Rowe in  
15 marketing, and he's saying Spinnaker's most likely losing  
16 money right now; right?

17 A. Yes.

18 Q. Okay. And he says -- his conclusion is,

19 "We need to bury them by taking away their  
20 renewal business in the back half of 2009, pushing them  
21 further into loss territory and maybe destroy them."

22 What's the renewal business?

23 A. The renewal business would be the second year that  
24 the clients come back on to buy another year of support.

25 Q. All right. So he is saying that what you need to do

1 is to take away those renewals in the second year and  
2 destroy them; right?

3 A. Yes.

4 Q. Okay. And then you respond about his analysis of  
5 whether they're making money. You say,

6 "I would say breaking even is absolute best  
7 case."

8 A. That's correct.

9 Q. And he then says,

10 "Absolutely. If we take away a chunk of the  
11 renewals and keep them from getting much new business, we  
12 really put them in a world of hurt."

13 And that was the business plan right then for  
14 Spinnaker; right?

15 A. Well, that was what this email communication was. I  
16 don't recall if we actually put a full plan into place for  
17 it.

18 Q. Well, you agreed with Mr. Ravin that there was a  
19 possibility that you could destroy Spinnaker at that point?

20 A. I did.

21 Q. In fact, you thought you could take the renewal  
22 business away from them and just take the oxygen out of the  
23 air and destroy them?

24 A. I did, yes.

25 Q. And that was your major competitor in 2009?

1 A. Yes.

2 Q. And then later in 2009 -- let's look at PTX 5471.

3 This is now an actual email from you in the  
4 middle of 2009 following a -- so now you're on the job  
5 about nine months; right?

6 A. Yes.

7 Q. Okay. And you're talking about Spinnaker.

8 MR. ISAACSON: And I need to move to admit.

9 MS. CHUANG: No objection.

10 THE COURT: It's admitted.

11 (Plaintiffs' Exhibit 5471 received into  
12 evidence.)

13 MR. ISAACSON: Let's put 5471 on the screen.

14 BY MR. ISAACSON:

15 Q. All right. Now, you're talking to -- I've  
16 mispronounced this gentleman's name before, Walter  
17 Hakenewert?

18 A. Hakenewert, yes.

19 Q. I'm getting better at that.

20 Is he in sales?

21 A. He is, yes.

22 Q. He reports to you?

23 A. At this point in time he did, yes.

24 Q. And he's saying,

25 "We absolutely need to beat Spinnaker on these

1 deals," referring to some JD Edwards' deals; right?

2 A. Yes.

3 Q. "Below are some points to use as a discussion about  
4 FUD."

5 FUD is fear, uncertainty, and doubt; correct?

6 A. That's correct.

7 Q. And so what you're talking about here is how to  
8 communicate to the customers that they should have fear,  
9 uncertainty, and doubt about Spinnaker; correct?

10 A. Correct.

11 Q. All right. And so what you say there are -- you  
12 say,

13 "There are rumors surfacing that Spinnaker is  
14 experiencing serious financial difficulties and had to make  
15 cuts to employee compensation. Many employees believe  
16 Spinnaker will not be viable in the future. Rimini Street  
17 has received inquiries from Spinnaker employees seeking  
18 alternative employment."

19 All right. Those were -- that was information  
20 that you then began to communicate to customers; correct?

21 A. That's correct.

22 Q. All right. You say,

23 "It is our estimates that they are losing money  
24 and did the salary cut as opposed to layoffs because  
25 layoffs would have sent too negative a message to

1 marketplace."

2                   You also began to tell customers that as well;  
3 right?

4       A.       We likely did, yes.

5       Q.       You say in the last paragraph,

6                   "Additionally Rimini Street will shortly  
7 announce the most extensive support and tax and reg support  
8 available for JDE's products, and such global offering will  
9 significantly eclipse Spinnaker's team and offerings to JDE  
10 clients. This expanded offering and service team will  
11 remove any remaining services that Spinnaker offers today  
12 that Rimini Street has not offered in the past and then  
13 goes beyond Spinnaker's offering in every service feature."

14                  That's how you described Spinnaker to your  
15 customers; correct?

16       A.       As of August of 2009, yes.

17       Q.       Right. And you thought -- you thought this was  
18 correct and knew it to be correct?

19       A.       Yes.

20       Q.       All right. And basically at this point Spinnaker's  
21 cutting salaries, it's declining, and you're surprised  
22 they're even still in business?

23       A.       We heard they were cutting salaries, I agree with  
24 that. We had heard that their sales may have been  
25 declining. I don't know if I can say I was surprised that

1 they were still in business.

2 Q. Well, you thought that -- you were hearing comments  
3 from people saying that people were surprised they were  
4 still in business?

5 A. Or that they were worried that they may not be in  
6 business in the future. I don't know if I specifically  
7 remember the comment "surprised they're still in business."

8 Q. "We thought they were a sinking ship," and people  
9 were telling you that they were surprised Spinnaker was  
10 still in business?

11 A. That may have been. I don't know if it was those  
12 exact words.

13 MR. ISAACSON: All right. Well, let me see if I  
14 can remind you. This would be January 5th, 2012,  
15 deposition, the individual deposition, at page 138, line  
16 15, and I would propose to play 138, line 15, through 1396,  
17 6.

18 COURTROOM ADMINISTRATOR: Whose deposition is  
19 this?

20 MR. ISAACSON: This is Mr. Maddock's deposition,  
21 his January 5th, 2012 deposition.

22 And we have extra transcripts. If I may  
23 approach and give one to the --

24 COURTROOM ADMINISTRATOR: January 5th you said?

25 MR. ISAACSON: Do you want me to give one to the



1 witness?

2 THE COURT: Just give it to Dionna.

3 MS. CHUANG: Your Honor, I'm unclear. Is he  
4 just refreshing recollection?

5 MR. ISAACSON: Yes.

6 So, Your Honor, page 138, beginning at line 15,  
7 through 139 at line 7 -- line 6, I'm sorry.

8 THE COURT: All right. You may do so.

9 MR. ISAACSON: Matt, would you play that for the  
10 witness.

11 (Videotape deposition of Kevin Maddock played  
12 as follows:)

13 "Q. And what did Mr. Slepko report?

14 "A. Would you like me to read it?

15 "Q. Sure.

16 "A. "Sorry, Seth, I couldn't resist letting the  
17 team know. Just got off the phone with a guy that  
18 is close to 5XTN folks that went over to  
19 Spinnaker, and he shared some very interesting  
20 intel. Spinnaker just cut salaries by 10 percent  
21 across the board. Comments he is hearing from the  
22 folks there. Surprised Spinnaker is still in  
23 business. Believe they will go under. Worried.  
24 Just hanging on."  
25 All in quotes.

1           "Q.    And what was your reaction to this  
2           email?

3           "A.    I wrote, "Yup, this is the time the  
4           investors would love to get out, if the ship is  
5           sinking?"

6   BY MR. ISAACSON:

7           Q.    Does that help you remember that you were receiving  
8           reports where people were saying that they were surprised  
9           that Spinnaker was still in business, and you were  
10          describing Spinnaker as a sinking ship?

11          A.    Yes, it does.

12          Q.    And the investors that would love to get out, were  
13          those investors in Spinnaker?

14          A.    That's what I believe I was referring to, yes.

15          Q.    Now, it is the case, isn't it, that when an Oracle  
16          customer chooses not to go to Rimini Street, in most cases  
17          they stay with Oracle?

18          A.    That's correct, yes.

19          Q.    Okay. In fact, your most frequent competitor in  
20          support for Oracle software is Oracle?

21          A.    That's correct.

22          Q.    And since TomorrowNow closed and you joined Rimini  
23          Street, your most frequent competitor is not Spinnaker,  
24          it's not any other company, for Oracle support, it's  
25          Oracle?

1 A. That's correct.

2 Q. Now, it's your understanding, based on your  
3 discussions with customers and your salespeople with  
4 customers, that Oracle rarely charges reinstatement fees;  
5 isn't that correct?

6 A. That's what I understand, correct.

7 Q. Let's go over what reinstatement fees are.

8 If a customer leaves Oracle -- the jury has  
9 heard discussion in this case, you don't know this?

10 A. Okay.

11 Q. The jury's heard that if they want to come back to  
12 Oracle, there could be a reinstatement fee, that you would  
13 have to pay those past years that you were gone.

14 So if someone went to Rimini Street and then  
15 decided, no, I don't like it there, I'm going back to  
16 Oracle, they would be charged a reinstatement fee, and it's  
17 your understanding that Oracle normally waived that fee and  
18 rarely charged it, correct?

19 A. That is my understanding, yes.

20 Q. And you would actually tell customers that so that  
21 they would have comfort that they could go back to Oracle?

22 A. That's correct.

23 Q. Now, you mentioned some other third-party support  
24 companies. Taking them all together, and during this  
25 period 2009 through 2012, okay, Rimini Street was the only

1 third-party support company that supported more than one --  
2 that supported more than one product line; is that  
3 correct?

4 Oh, I'm sorry. I misstated that. Let me start  
5 over.

6 It generally was the case that the other  
7 third-party support companies would only support one  
8 product line, that is, only JDE, only Siebel, only  
9 PeopleSoft?

10 A. I believe that's accurate, yes.

11 Q. And Rimini has many more -- during that period had  
12 many more customers for third-party support than any other  
13 third-party support company you might happen to name;  
14 right?

15 A. I agree with that, yes.

16 Q. All right. And unlike those other third-party  
17 support companies, you were the only one who was actually  
18 dedicated to third-party support, the others all had other  
19 businesses as well?

20 A. Yes, that's correct.

21 Q. For example, some of them were consulting -- offered  
22 consulting services, and Rimini Street generally didn't do  
23 that?

24 A. Correct.

25 Q. Okay. You mentioned a company called NetCustomer.

1                   Now, in general, Rimini Street believed that  
2 NetCustomer's business model was dead wrong and would fail;  
3 is that fair?

4           A.       I think that's fair.

5           Q.       Okay. Would you describe why?

6           A.       I believe because -- this goes back many years, but  
7 I believe it was because they were an offshore model, and I  
8 just don't remember us having a lot of understanding of  
9 their model and seeing them in a lot of deals.

10          Q.       Now --

11          A.       I think they may -- I think they may have done  
12 something where they reported to work with PeopleSoft  
13 customers. I don't recall the specifics.

14                   But what I recollect about NetCustomer was that  
15 they were an offshore model and didn't seem to have a lot  
16 of customers.

17          Q.       Did you say didn't see a lot of customers?

18          A.       Didn't seem -- we didn't hear that they had a lot of  
19 customers.

20          Q.       Okay. So they didn't have a lot of customers as far  
21 as you know; is that correct?

22          A.       That's correct, yes.

23          Q.       And by an offshore model, you mean they were -- 100  
24 percent of their support people were located outside the  
25 United States and were trying to support inside the United

1 States?

2 A. That's what an offshore model would be, yes.

3 Q. And, in this case, you understood them to be fairly  
4 far offshore, they were in India?

5 A. That's what I remember, yes.

6 Q. And your understanding and belief was they were not  
7 succeeding with that model, trying to support US customers  
8 100 percent from India?

9 A. That's what I remember, yes.

10 Q. All right. They also -- in addition, NetCustomer  
11 did not, as you understood it, have any extensive  
12 experience with clients?

13 A. Meaning that they didn't have a lot of clients?  
14 Yes.

15 Q. Right. Or past experience with -- the people  
16 working there didn't have any prior experience with  
17 clients?

18 A. I don't remember that specifically, but if I were to  
19 look at the FAQs, my guess is that that would be there.

20 Q. I don't want you guessing. 5352, which has been  
21 admitted. We looked at this before. Let's go to page 12.

22 We looked at -- we looked at Spinnaker support  
23 on here. Let's look at NetCustomer.

24 A. Okay.

25 Q. All right. Here are the points:

1                   "Infrequently see NetCustomer in deals," you've  
2 mentioned that?

3       A.       Yes.

4       Q.       You've mentioned "provides remote support from  
5 India."

6       A.       Yes.

7       Q.       You've mentioned "does not appear to have extensive  
8 experience or clients."

9       A.       Yes.

10      Q.       "Claims to have helped PeopleSoft directly with  
11 support services in the past, but this was simply a  
12 help-desk operation passing calls to technical resources at  
13 PeopleSoft."

14                   You understood that to be correct; right?

15      A.       I did. And I -- I was trying to reference that  
16 earlier when I said I recalled that they were doing  
17 something with PeopleSoft.

18      Q.       Right. When you say they were doing something with  
19 PeopleSoft, they would answer the phone and then have you  
20 talk directly to PeopleSoft, that is, Oracle?

21      A.       Yes.

22      Q.       Just a phone pass-through outfit?

23      A.       Yes.

24      Q.       You did not -- and then, "they had no credible  
25 reference clients"; right?

1 A. Yes.

2 Q. They didn't have any credible clients who would give  
3 them a good referral?

4 A. Not that our marketing group could find, no.

5 Q. Okay. You did not find them to be a viable  
6 competitor?

7 A. I did not, no.

8 Q. Okay. While we've got the document open, let's take  
9 a look at CedarCrestone.

10 All right. This is another company whose prior  
11 business was consulting, not support; right?

12 A. That's correct.

13 Q. Okay. "They provide alternative support behind the  
14 scenes," you say because they didn't want to raise Oracle's  
15 ire; right?

16 A. Yes.

17 Q. All right. "They don't recommend to clients so that  
18 they leave Oracle annual support."

19 A. Yes.

20 Q. So all they're doing is offering support on top of  
21 Oracle's support; correct?

22 A. That's what I remember it to be.

23 Q. All right. And they have less than 100 clients,  
24 correct?

25 A. Yes.



1 Q. Only PeopleSoft?

2 A. Yes.

3 Q. The majority of that is to one PeopleSoft product  
4 HCM. I'm sorry, no, I'm saying this wrong.

5 The majority of their resources are dedicated to  
6 a consulting practice; right?

7 A. That's right, yes.

8 Q. Okay. And they don't offer fixed fees, they go up  
9 with inflation?

10 A. Yes.

11 Q. With the CPI?

12 A. Yes.

13 Q. Let's finish off this -- the other ones on the next  
14 page.

15 Versytec and Abtech Support, you considered  
16 those even less consequential competitors than the ones  
17 we've been discussing; right?

18 A. I wouldn't agree with that.

19 Q. Okay. Well, let's get your ranking of them. I  
20 gather -- you told me Spinnaker would have been your most  
21 prominent competitor?

22 A. Yes.

23 Q. Who is second?

24 A. CedarCrestone.

25 Q. That's the one who has less than 100 customers and

1 is offering client support on top of Oracle support;  
2 correct?

3 A. Yes.

4 Q. All right. And who is third?

5 A. Third I would say is Versytec.

6 Q. Then who is at the bottom, NetCustomer or Abtech  
7 Support?

8 A. NetCustomer.

9 Q. Let's look at Versytec.

10 "Longtime niche vendor." What does a niche  
11 vendor mean?

12 A. My understanding is that they would be focused on  
13 one particular type product line.

14 Q. Okay. And what's that one product line here?

15 A. JD Edwards.

16 Q. All right. And they appear to be a much smaller  
17 player. You've got them ranked fourth here. They're a  
18 smaller player than the other three?

19 A. Yeah, that was my understanding.

20 Q. And they'd had no new clients or updates on their  
21 website since 2004.

22 A. Yeah, that's what our marketing department reported.

23 Q. And they were providing poor service; is that  
24 correct?

25 A. I recall us getting some reports from some of their

1 clients saying they were providing poor service, yes.

2 Q. Okay. Now, there was one Siebel company.

3 Now, Abtech. Abtech is the only company  
4 providing Siebel support other than Rimini Street; correct?

5 A. That's correct.

6 Q. And, I'm sorry, you told me, I can't remember if you  
7 had them below or above NetCustomer?

8 A. I had them at number four.

9 Q. "Little-known hardware and network support  
10 organization."

11 It was an organization that had very little  
12 presence in the marketplace; correct?

13 A. Yes.

14 Q. "Claims to provide support for Siebel."

15 But you didn't actually know whether they did?

16 A. What I remember is we didn't know what customers  
17 they may have had.

18 Q. All right. In fact, you say, "Rimini Street has  
19 rarely seen Abtech in a deal."

20 You rarely went out to the market to talk about  
21 a sale to a customer and have Abtech involved, correct?

22 A. They did not show up in a lot of deals, yes, that's  
23 correct.

24 Q. Okay. Now, I want to go back to CedarCrestone.  
25 Okay?

1           It was -- we talked about how they only offered  
2 support on top of Oracle support. In fact, in the  
3 marketplace, they denied that they provided third-party  
4 support; correct?

5       A.     I remember them denying that, yes.

6           MR. ISAACSON: All right. Let's look at  
7 Plaintiffs' Exhibit 803, which I would request to admit.

8           MS. CHUANG: Subject to my earlier objection, I  
9 have no objection.

10          THE COURT: All right. Continuing objection  
11 will be noted, and it will be admitted.

12           (Plaintiffs' Exhibit 803 received into  
13 evidence.)

14 BY MR. ISAACSON:

15       Q.     All right. Now, this is before you joined the  
16 company so I'm just going to ask you whether you knew these  
17 things to be true.

18           August 2008, Mr. Rowe is writing to Mr. Ravin.  
19 So by the time you joined the company, was it your  
20 understanding as stated here, that essentially  
21 CedarCrestone is denying that they are in the third-party  
22 support business?

23       A.     That was my understanding, yes.

24       Q.     Okay. And then at the bottoms of the page, it says,  
25 "RSI," meaning Rimini Street, "is the leader in our field,

1 and CedarCrestone is not."

2 Is that your view after you joined the company?

3 A. Yes, it was.

4 MR. ISAACSON: Then let's look at after you  
5 joined the company, 1341, which I would move to admit.

6 MS. CHUANG: No objection.

7 THE COURT: It's admitted.

8 (Plaintiffs' Exhibit 1341 received into  
9 evidence.)

10 BY MR. ISAACSON:

11 Q. Now, this is an email from Mr. Ravin to you and  
12 Mr. Hakenewert in the first month after you joined the  
13 company; right?

14 A. Yes, it looks to be.

15 Q. And you're talking about a specific -- a potential  
16 client deal. Is that what's happening here?

17 A. Yes, Alcatel-Lucent.

18 Q. Right. And now you're talking about CedarCrestone,  
19 and Mr. Ravin is writing in the second paragraph,

20 "How they are a good company for implementation,  
21 but third-party support is NOT," all capitals, "their core  
22 business."

23 What's the implementation?

24 A. Implementation is implementing the software,  
25 installing the software after you purchase it.

1 Q. All right. So they're not -- what he's saying is  
2 they're a good company for installing your software, but  
3 they're not providing -- providing ongoing support is not  
4 their core business?

5 A. That's correct.

6 Q. And I think we saw this before, they don't even  
7 feature support on their website. That's something you  
8 knew after you joined the company; right?

9 A. Yes.

10 Q. "Nowhere will you find them ever in an article  
11 featuring a satisfied third-party maintenance client."

12 A. That's correct.

13 Q. And there's been testimony in this case, and I'm not  
14 going to bother you much about that, about the importance  
15 of referrals. Satisfied clients providing referrals are a  
16 big part of your business; correct?

17 A. I would have to agree, yes.

18 Q. All right. And would have to be a big part of the  
19 business of any other third-party support company that was  
20 going to effectively compete against you?

21 A. I think I can make that leap and agree with that,  
22 yes.

23 Q. So if one of your competitors doesn't have satisfied  
24 customers out in the marketplace providing referrals,  
25 you're not expecting them to be a strong competitor; is

1 that fair?

2 A. I think that's fair, yes.

3 Q. Okay. All right. A little bit more on Versytec.  
4 Versytec you never considered to be a major competitor;  
5 correct?

6 A. I agree with that, yes.

7 Q. Okay. And you can't actually -- you actually can't  
8 recall today any customer you've ever lost -- I'm sorry.  
9 We're cutting things off at 2012.

10 From 2012 and before, you wouldn't be able to  
11 name any customer you lost to Versytec?

12 A. I would not, no.

13 Q. Now, there's another -- so we've been through the  
14 competitive landscape.

15 The other topic that's come up is something  
16 called self-support, and that's where the customer does  
17 their own -- does the support for themselves, self-support;  
18 right?

19 A. Yes.

20 Q. Okay. Now, self-support, in your view, is risky.  
21 It's like driving a car without insurance or not having  
22 health insurance?

23 A. That's correct, I do feel that way.

24 Q. Okay. And the reason is, is this is really  
25 important software to a business, to its HR, to its

1     accounting, to its finances, and if there's a problem with  
2     it, you need to have support available right away?

3     A.     You're asking me if I agree with that?

4     Q.     Yeah.

5     A.     Yes, I do.

6     Q.     In fact, that's what you tell customers; correct?

7     A.     That's right.

8     Q.     Okay. And you actually have enough experience with  
9     customers who have -- if they have problems with the  
10    software, to know that to be true, that it's actually  
11    risky, very risky to go on self-support?

12    A.     I believe that, yes.

13    Q.     Okay. You have enough experience in this field with  
14    customers to actually -- because we've been talking about  
15    believing versus knowing. This one you actually know,  
16    right? You know that it's very risky for a customer to go  
17    on self-support?

18    A.     Yes.

19           MR. ISAACSON: Okay. All right. And let's look  
20    at 5474, which I don't have a note on, so I'll move to  
21    admit.

22           MS. CHUANG: No objection.

23           THE COURT: It's admitted.

24           (Plaintiffs' Exhibit 5474 received into  
25    evidence.)



1 BY MR. ISAACSON:

2 Q. This is a -- on the first page you'll see an email  
3 in 2010, and it's from Mr. Davichick, who is in sales, to  
4 Mr. Casey at Irish Permanent Life. That's a customer;  
5 right?

6 A. It was a prospect. I don't believe they ever came  
7 onboard.

8 Q. A prospect and copying you?

9 A. That's right.

10 Q. And there's sales marketing materials attached. I  
11 want to go to page 3, big letters, Why Not Self-Support?

12 A. Okay.

13 Q. All right. And then here is, Why Companies Choose  
14 Not to Self-Support Key Software Applications.

15 All right. So there's some -- this is a sales  
16 document, so I'm going to ask you about some of these terms  
17 from the sales perspective.

18 "Not staffed sufficiently for tier 3 level  
19 emergency response, diagnostics and fix design, development  
20 testing and packaging."

21 What's that tier 3 level emergency response?

22 A. Tier 3 would be a break/fix, so if there's a bug in  
23 the software, being able to fix that bug.

24 Q. All right. And what you're saying, when not staffed  
25 sufficiently, you're saying the customer is not going to be

1       staffed sufficiently if there is a break/fix, that is a bug  
2       in the software, so that they can fix the bug; is that  
3       right?

4       A.       That's correct.

5       Q.       Okay. SOX risk mitigation and risk sharing.

6               Do you want to explain SOX or should I?

7       A.       I'd prefer you to.

8       Q.       Why don't you go ahead. You're the witness.

9       A.       SOX risk, I believe there's various rules out there  
10      for compliance that the government states that the -- the  
11      financial rules that the government states companies need  
12      to comply to.

13      Q.       Right. And the auditors for the clients, that is,  
14      the accountants that audit the customer, may decide that  
15      running this software -- because it includes the accounting  
16      software; right?

17      A.       Some of it does, yes.

18      Q.       All right.

19               "Without a strong external support contract for  
20      key systems is a risk that needs to be publicly disclosed  
21      for publicly-traded organizations."

22               So what that means is, if you're a company who  
23      sells stock publicly on a public exchange like the New York  
24      Stock Exchange, and you have to make certain disclosures on  
25      a regular basis, that if you don't have strong external

1 support, that you might actually have to disclose to the  
2 public that you're running a risk, and that your auditors  
3 might require you to make that disclosure.

4 That's what you're saying here?

5 A. That's correct.

6 Q. Okay. And then the third thing is the changes in  
7 company's IT objectives or staffing can impact  
8 mission-critical support capabilities at any time.

9 And do I understand this, is that when the IT  
10 staff changes its objectives, or the staff changes, that  
11 you might need support to help them adapt that software to  
12 their new objectives or their new staff?

13 A. I think it can mean that, or some employees may be  
14 shifted within the organization to other capacities.

15 Q. Okay. I'll skip 4 because I really don't understand  
16 that one, and I won't bother you with it.

17 Number 5, tax and regulatory complexities often  
18 take up too many internal resources and hours.

19 And what that's referring to is, if you're on  
20 self-support, and you're doing the tax and regulatory  
21 updates, you have to have someone in your company figure  
22 out the tax and regulation changes that affect your company  
23 and make the appropriate changes in the software?

24 A. That's right.

25 Q. All right. And all of these points were points that

1 you made to customers as part of standard messaging;  
2 correct?

3 A. If they were considering self-support, yes.

4 Q. Yes. And all of these points were ones that you not  
5 only believed to be true, but you had enough background in  
6 the industry to know them to be true?

7 A. Yes, I believe it.

8 Q. All right. And part of your background in the  
9 industry was you would hear horror stories from customers  
10 who tried self-support and failed?

11 A. Some of my sales reps did, yes.

12 Q. And they would report that to you?

13 A. Yes.

14 Q. And by "horror stories," we mean bad things that  
15 happen to customers when they were trying to support the  
16 software, and, all of a sudden, it didn't work, and the  
17 problems they had at their company?

18 A. Yes, that's correct.

19 Q. There's another term that's been discussed in this  
20 case: remote support.

21 A. I'm sorry, I didn't hear the term.

22 Q. Remote support.

23 A. Remote support.

24 Q. And, again, you know enough about that term from  
25 sales to know that that means supporting an environment

1 that's located on the customer's system; correct?

2 A. I understand that, yes.

3 Q. All right. And you understood that within your --  
4 after you joined the company, that the view of people in  
5 your company was that supporting remote environments was an  
6 insane business model. You didn't want to do it?

7 A. I'm not sure I agree with that, no, that I  
8 understood enough to know that.

9 Q. Well, let's look at Plaintiffs' Exhibit 60 which has  
10 been previously admitted. Let's look at the first page.

11 This is from Mr. Freeman. Do you understand who  
12 Mr. Freeman is?

13 A. I don't. No, I don't remember that name.

14 Q. Do you know who Mr. Bengé is?

15 A. I do know Mr. Bengé, yes.

16 Q. Who is Mr. Bengé?

17 A. Mr. Bengé is a Rimini Street employee that's  
18 involved in our tax and regulatory update processes.

19 Q. Okay. So he's an engineer involved in tax and  
20 regulatory. And then there's copies to Mr. Chiu. He's a  
21 high-level vice-president; correct?

22 A. Yes.

23 Q. You, you're the head of sales; correct?

24 A. Yes.

25 Q. Krista Williams, who we met earlier today, she's the

1 head of environments; correct?

2 A. I believe so. I don't know her exact position.

3 Q. Okay. And Mr. Freeman, who is an internal support  
4 engineer, says -- well, let's back down to what Mr. Bengé  
5 says so we get the context at the bottom.

6 "Thanks, Ed, this is why we love inhouse  
7 environments," and a little smiley icon.

8 And Mr. Freeman says, "No, this is why it's  
9 insane and defies our business model to offer to support  
10 remote environments."

11 A. Yes, I see that there.

12 Q. You understood enough of the business model of  
13 Rimini during this time period to know that Rimini's  
14 business model -- that under your business model it was  
15 insane to offer remote environments to your customers?

16 A. I'm not going to agree I did understand enough to  
17 think it was insane. I was copied on this email. I don't  
18 remember seeing the email.

19 Q. So you heard discussions along those lines, but you  
20 didn't know one way or another whether it was true?

21 A. Yeah. I wouldn't -- I'm not technical enough to  
22 understand that.

23 Q. All right. One last thing I want to ask you about.  
24 We touched on references.

25 Rimini does offer its customers sometimes

1 special deals if they're willing to provide Rimini a  
2 reference; right?

3 A. That has happened in the past.

4 Q. Okay. You also have a charter program where you  
5 offer 75 percent off if you provide a reference; is that  
6 right?

7 A. There was a charter program for new EBS customers  
8 and for SAP customers where we did that, yes.

9 Q. Okay. And those are sometimes referred to as  
10 sweetheart deals; right?

11 A. I don't believe I've ever referred to that as a  
12 sweetheart deal, but others may have.

13 Q. Okay. And you mentioned that there was some  
14 references in the past -- I think you said there were four  
15 historically that you knew about. Those included the City  
16 of Flint; right?

17 A. What are you asking me on this? There's four others  
18 that did what?

19 Q. When you referred to four others, did that include  
20 the City of Flint?

21 A. Four other customers that received discounts?

22 Q. Yes, for references?

23 A. That's my understanding, yes, City of Flint was one  
24 of them.

25 Q. And that's a direct monetary trade. You say to the

1 client "I'll give you a discount if you provide me a good  
2 reference"?

3 A. That's part of the negotiation, yes.

4 Q. Okay. And City of Flint, I think as we established,  
5 is one of your early PeopleSoft clients. I think the  
6 record will reflect that they were your first, but you  
7 weren't around then. But you were familiar that they were  
8 one of the customers who gave you references most often?

9 A. Yes. They were a good reference customer for us,  
10 yes.

11 Q. Okay. And then there was a company named Cowlitz  
12 County. Did you know about them?

13 A. When you say did I know about them, please be more  
14 specific.

15 Q. Are you familiar with the customer --

16 A. Yeah, I mean, I've heard of the customer.

17 Q. And were you aware that they were given a special  
18 price of \$100 a year for three years in exchange for giving  
19 Rimini references?

20 A. I remember being made aware of that at my  
21 depositions, I believe. I did not know prior to that.

22 MR. ISAACSON: I don't have any further  
23 questions.

24 THE COURT: All right.

25 Cross-examination?



1 CROSS-EXAMINATION

2 BY MS. CHUANG:

3 Q. Good morning, Mr. Maddock.

4 A. Good morning.

5 Q. Before we talk about some of the issues in this  
6 case, I want to step back and give the jury a little bit of  
7 background about you.

8 A. Okay.

9 Q. We're kind of in an unusual situation where I'm  
10 asking you questions second, so I want to give the jury  
11 that background.

12 First, have you ever testified in a jury trial?

13 A. No, I never have.

14 Q. And can you tell the jury briefly about your  
15 educational background?

16 A. Sure. I went to University of Notre Dame for my  
17 undergraduate degree. I majored in finance.

18 Several years later, after about five years of  
19 working, I went back to UCLA and got an MBA with a  
20 concentration in general management.

21 Q. And tell us what you did in those five years of  
22 working.

23 A. I worked at a company called Anderson Consulting,  
24 which is now better known as Accenture, where I was  
25 managing system implementations typically for large

1 companies.

2 Q. And when you say system implementations, can you  
3 explain that a little bit to the jury?

4 A. Yes. So software implementation. So more  
5 specifically, the biggest project I worked on was for a  
6 company named Pacific Bell, which is now part of AT&T.

7 And this is back in the late '80s when you may  
8 remember phone systems were evolving, and they needed to --  
9 some things like Caller ID, and they needed to create a  
10 billing system for that. So I served as part of the team  
11 that helped design that and managed the overall project.

12 Q. After you graduated UCLA with an MBA, what was your  
13 first job?

14 A. My job coming right out of MBA school was with  
15 another consulting firm named KPMG. I was in a strategy  
16 and operations consulting role typically for financial  
17 services companies.

18 Q. And then what did you do after you left KPMG?

19 A. When I left KPMG, I went to work at PeopleSoft.

20 Q. And the jury's heard a little bit about PeopleSoft.  
21 Can you tell the jury what years you worked at PeopleSoft,  
22 please.

23 A. Sure. I was there from May of 1998 until September  
24 of 2004.

25 Q. And what was your job at PeopleSoft?

1       A.       I was part of what we call the support sales  
2 organization. So initially I was an individual sales  
3 representative whose job had a territory and whose job it  
4 was to call our existing customers to ensure that they  
5 renew their support contracts each year.

6               After a year I was asked to roll the group out  
7 overseas, so I spent some time in Europe and South America  
8 and Australia and Asia rolling that group out to set the  
9 operations up.

10              And then when I came back, I was promoted to be  
11 a vice-president, and I ran the overall global  
12 organization. So ultimately my job was to ensure that all  
13 of PeopleSoft support revenue came into the company.

14       Q.       And when you say support revenue and support  
15 renewals, can you define that for the jury?

16       A.       Sure. So, as I think I stated earlier, when a  
17 customer immediately interacts or purchases software  
18 licenses from a software company, they pay typically a  
19 license fee, and as part of their long-term agreement  
20 there's an annual fee associated with that license fee.

21              It's typically based on a percentage of it.  
22 That entitles the customer to receive support ongoing. So  
23 that would be for fixes, for future versions of the  
24 software, maybe some account management services.

25              So it's an ongoing annual-type service that the

1 customers have the option to renew or not to renew. So it  
2 was my job to ultimately work with our customers to get  
3 them to renew each year.

4 Q. Is it fair to say that the majority of your  
5 responsibilities at PeopleSoft were on the sales and  
6 management side?

7 A. Yeah, I think that's very fair.

8 Q. And then what did you do after PeopleSoft? Did you  
9 leave PeopleSoft?

10 A. I'm sorry?

11 Q. Did you leave PeopleSoft?

12 A. Yes.

13 Q. What did you do after that?

14 A. I went to a smaller startup named Service Source,  
15 and this would have been in October of 2004, where I was  
16 recruited in to be their executive vice-president for their  
17 inside sales and delivery organization.

18 And Service Source was an outsource sales  
19 solution for support contract renewals for both hardware  
20 and software companies.

21 So I was essentially taking the skills and  
22 knowledge that I'd learned at PeopleSoft, in terms of  
23 getting customers to renew support contracts, and taking  
24 that into a new company where we did it for a variety and  
25 multiple of technology companies.

1 Q. What were some of the companies?

2 A. This is going back a few years now, but Juniper  
3 Networks was one, Borland Software, Juniper -- I'm going  
4 back -- Agile Software was one of them. And then -- I  
5 mean, there were several others. I'm having a little  
6 trouble remembering them all.

7 Q. That's okay. At some point you left Service Source;  
8 correct?

9 A. Yeah, I did, in March of 2008.

10 Q. March of 2008. And then we've heard from your  
11 testimony today you joined Rimini Street in December of  
12 2008?

13 A. That's correct, yes.

14 Q. What did you do during March of 2008 to December?

15 A. Well, I took some time to relax with my wife and  
16 son. And we spent some time traveling, spent some time at  
17 both of our family's homes, trying to do the things you  
18 don't get to do when you're working long hours in demanding  
19 jobs.

20 Q. Prior to joining the company at Rimini Street, did  
21 you do research on the company?

22 A. On Rimini Street?

23 Q. Yeah, sure?

24 A. Yeah, sure, I did.

25 Q. And why did you decide to take the job at Rimini

1 Street?

2 A. Well, I was thinking -- first of all, in terms of  
3 the timeframe, this was in September-October of 2008, and  
4 some of you may remember, it was a very bad time in the  
5 economy, they were referring to it as the great recession,  
6 and many companies were looking to cut costs.

7 So I was thinking back to my days at PeopleSoft  
8 when I was on the phone with many, many customers who were  
9 questioning the value they received for their support, and  
10 I thought it would be --

11 MR. ISAACSON: Objection, Your Honor, move to  
12 strike. He's now injecting customer testimony.

13 THE COURT: Okay. Overruled. I'll allow it to  
14 stand as one of his thoughts as bearing upon his  
15 qualification.

16 THE WITNESS: So I remembered some of the  
17 conversations that I had, and how customers were looking  
18 for alternatives.

19 I felt that also -- this is four or five years  
20 later, software had become much more mature, and I just  
21 thought in a down economy, it would be a great opportunity  
22 to be able to go into a market that I felt there would be  
23 demand and need for.

24 I also checked back with several of my former  
25 colleagues who were working in the software industry and

1 asking if customers still felt that they were paying too  
2 much for software --

3 MR. ISAACSON: Objection, Your Honor.

4 THE COURT: Yes, sustained.

5 MS. CHUANG: We'll move on.

6 THE WITNESS: Overall, I thought it would be a  
7 great opportunity -- sorry.

8 MS. CHUANG: That's okay.

9 BY MS. CHUANG:

10 Q. We've heard that when you joined Rimini Street, you  
11 joined as senior vice-president of global sales; correct?

12 A. That's right, yes.

13 Q. What were your job duties?

14 A. Well, at a high level, my job duty was to ensure  
15 that we hit our company number in terms of targets for  
16 bringing in new customers and then also our company number  
17 for targets for getting our existing customers to renew.  
18 So it was at a high level.

19 I was also responsible for managing initially  
20 the sales team of four that I had mentioned earlier.

21 I was in charge of setting quotas, developing  
22 territories, hiring new individuals. I was doing a lot of  
23 interviewing and recruiting.

24 I was also working with our marketing group to  
25 get tools set up with the sales forces, such as the FAQs

1 document, which we've referenced multiple times today.

2 I also served on the executive committee or  
3 operating committee so I would attend those meetings, and  
4 ultimately creating an environment that would be successful  
5 for my sales force.

6 I also attended a lot of trade shows and  
7 conferences to help get our word and message out.

8 Q. So at this point in time when you joined Rimini  
9 Street, there were, I think you said, four to five  
10 salespeople?

11 A. There were four when I joined, yes.

12 Q. And under your watch at the end of 2011, you grew  
13 that to 20?

14 A. Yeah, 20 or -- roughly 20, maybe a few more.

15 Q. You also said that you were developing territories.  
16 What does that mean?

17 A. Well, the way to run a proper sales organization  
18 would be that each sales representative should have a  
19 certain territory that he or she is responsible for. It  
20 could be by state or geography, it could be for a  
21 particular industry, or what we call vertical, or it could  
22 just be a set of accounts, based on size of accounts.

23 So it was my role to determine how we should  
24 organize the sales force and what territories to give to  
25 each sales representative.



1 Q. I want to go to one of the topics that we ended  
2 with, and that's competitors in the marketplace?

3 A. Okay.

4 Q. And there was a line of questioning about other  
5 competitors in the marketplace, such as Spinnaker,  
6 CedarCrestone. You recall that?

7 A. Yes, I do.

8 Q. And we went through -- we went through some of the  
9 criticisms of each of the competitor's services with  
10 Oracle's counsel. Do you remember that?

11 A. Yes, I do.

12 Q. When you were out selling Rimini Street services, do  
13 you see these competitors competing with your business?

14 A. In the 2009 and --

15 Q. I'm sorry, yes, the 2009 to 2011 timeframe.

16 A. Yes, their names definitely came up in the sales  
17 process.

18 Q. And in the 2009 to 2011 timeframe, has Rimini Street  
19 lost a customer to one of these competitors or third  
20 parties?

21 A. Sure. We did.

22 Q. You also discussed self-support with Mr. Isaacson?

23 A. Yes.

24 Q. Customers can self-support at their own option;  
25 correct?

1 A. That's right, they can.

2 Q. And in your -- based on your understanding of the  
3 marketplace, has some clients been successful with  
4 self-support?

5 A. Some have, yes.

6 Q. And has Rimini Street lost clients to self-support?

7 A. Yes, we have.

8 Q. And have you also had clients sign up with Rimini  
9 Street after being on self-support or supporting  
10 themselves?

11 A. Yes, we have.

12 Q. We've seen a lot of the frequently asked questions,  
13 the FAQs, in this case. And is it a practice for your  
14 sales team to go through all of the issues outlined on the  
15 frequently asked questions with each customer?

16 A. No, it's not.

17 Q. Why not?

18 A. Because there's -- many of those questions don't  
19 come up in every sales call or with each customer.

20 So those questions are geared towards the sales  
21 force being able to respond should one or some of those  
22 questions come up in any particular opportunity.

23 Q. There was a line of questioning in the beginning of  
24 your examination about certain sales messages that you  
25 would -- that would -- that would be Rimini Street's sales

1 messages to consumers. Do you recall that?

2 A. Yes.

3 Q. And some of the messages was that we wouldn't use  
4 your custom environment, it would be used only for another  
5 customer?

6 A. Yes.

7 Q. Messages like those?

8 Do you believe that the statements that you made  
9 to clients between the time you joined the company to  
10 December of 2011 were accurate when you made them?

11 A. Yes, I absolutely do.

12 Q. And from the time you started with Rimini to  
13 December 2011, how frequent -- or can you estimate for us  
14 how frequently a customer would raise a question about the  
15 legality of a specific process of Rimini Street?

16 MR. ISAACSON: Objection, Your Honor. Is this  
17 to him?

18 MS. CHUANG: Yes.

19 MR. ISAACSON: Then no objection.

20 THE WITNESS: So can you repeat the question,  
21 please.

22 BY MS. CHUANG:

23 Q. Sure. From the time that you started Rimini Street  
24 until December of 2011, can you estimate for the jury how  
25 many times or how frequently a customer would raise a

1 question about the legality of a specific process at Rimini  
2 Street during a sales cycle?

3 A. To me, Kevin Maddock?

4 Q. Yes, to you, Kevin Maddock?

5 A. Fewer than five times.

6 Q. Is it part of your job duty as senior vice-president  
7 of global sales to track the sales numbers, how much you're  
8 selling?

9 A. Yes, we have a variety of numbers. But, yes.  
10 Ultimately, yes.

11 Q. And after this lawsuit was filed by Oracle in  
12 January of 2010, what happened to Rimini Street's sales  
13 numbers between January 2010 to the end of 2011?

14 A. Well, January 2010, that would have been Q1 of that  
15 year, they declined somewhat dramatically in that first  
16 quarter.

17 Second quarter, they started to pick up  
18 slightly. By Q3 and Q4, we started growing again. And I  
19 think we've been growing at a 40 percent annual clip since  
20 that point.

21 Q. Let me see if I understand it. In January 2010, Q1,  
22 Q2 is the first half of the year?

23 A. Yes.

24 Q. It declined?

25 A. Yes.

1 Q. And then it started to pick up, you said Q3, Q4,  
2 which is the end of --

3 A. Q3, Q4, yeah, which is the second half of the year.  
4 We're not based on a calendar year.

5 Q. And then what about the year of 2011?

6 A. 2011, the sales picked up again. From memory, I  
7 think we grew over 40 percent that year.

8 Q. There was a line of questioning early on about --  
9 you testified about that the customer needs -- correct me  
10 if I'm wrong, that the customer needs to review their own  
11 license agreement. Do you recall that?

12 A. Yes, I do.

13 Q. And that Rimini tells customers that we are abiding  
14 by the customer agreement. Do you recall that as well?

15 A. Yes.

16 Q. Would that be the actual language that you or your  
17 salespeople would use?

18 A. We would say that a customer needs to go back to the  
19 legal group to make their own determination of whether  
20 their contract allowed for what they were going to be going  
21 into with us or not.

22 Q. And would you also tell that customer using the  
23 language we are abiding by their license agreement?

24 A. We would tell them that we have processes and  
25 methodologies and control that don't allow -- that would

1 protect the vendor's IP, and that don't allow any -- don't  
2 allow you to receive anything that you won't receive as  
3 part of your license, outside your license constraints or  
4 rights.

5 Q. And how frequently would it come up for you,  
6 Mr. Maddock, in which you would say that we have strict  
7 methodologies in place and you don't receive anything that  
8 you're not entitled to?

9 A. I'd say maybe 10 percent of the calls that I was on.

10 Q. Let's talk a little bit about Rimini Street's sales  
11 cycle.

12 A. Okay.

13 Q. First, how do you or your sales team identify a  
14 potential customer?

15 A. There's a variety of ways. We go to tradeshow, we  
16 go to conferences, we do webinars, we do email campaigns.  
17 Some of it's just through cold calling, using our own  
18 networks of people that we know in the industry to get our  
19 initial phone calls.

20 We also have a business development or lead  
21 business development or legion team that also does such --  
22 much of that.

23 Q. And once you have identified a potential customer,  
24 can you briefly walk this jury or describe the process or  
25 steps you take once you've contacted them?

1       A.       Sure. I mean, we typically would have an initial  
2 call or presentation which we would present to them, going  
3 through what our service offering is and the value that we  
4 think we can provide to them.

5               After that call, we would ask to have a mutual  
6 NDA in place, which is a nondisclosure agreement, which  
7 protects the rights of both entities, stating that we'll  
8 keep everything confidential, any communications that we  
9 have.

10              After that point we would ask to see their  
11 invoices and what products that they were looking to have  
12 supported so that we could do some analysis to determine  
13 that we could in fact support those problems.

14              We could also see what the price that they had  
15 been paying was so that we could put together a proposal at  
16 50 percent of that price.

17              Then we put together a proposal contract, which  
18 we would send to them to review or have their legal teams  
19 review.

20              And, at the same time, in many cases, we would  
21 be conducting more technical discussions with them because  
22 very often our customers would have technical questions  
23 about our services and how we were going to provide the  
24 support. So those would be being held in parallel.

25              Once those questions were answered to a

1 prospect's sufficient needs, then we typically engage in  
2 more of the legal view and discussion going through the  
3 contracts.

4 And then, once we reached agreement, we would  
5 have a signed contract and begin an onboarding period.

6 Q. You said a lot. I want to break out just a few  
7 things.

8 At the initial call, you said that you tell the  
9 prospective customer the value of your services.

10 A. That's right.

11 Q. What would your message be to that customer? What's  
12 the value of your services?

13 A. So at high level, it's at least 50 percent of what  
14 you've been paying to Oracle, it's a 50 percent cost  
15 reduction with better support.

16 We have a named primary support engineer as  
17 opposed to a call center, which is what many of the  
18 software vendors use.

19 We provide 24-by-7, 30-minute response. We were  
20 averaging, I think, three and a half minutes at that time  
21 in terms of response.

22 We support customizations.

23 We supply also an assigned account manager.

24 And we don't force customers to upgrade. We let  
25 them run their software at that point in time for at least



1 10 years so they didn't have to pay more money to do  
2 upgrades.

3 Q. You also said that during these discussions -- or  
4 during the sales cycle, technical questions may come up?

5 A. Yes, that's right.

6 Q. You've told this jury that that wasn't necessarily  
7 your field, technical?

8 A. No, I'm not a technical person.

9 Q. So who would become involved if there were technical  
10 questions that came up during the sales cycle?

11 A. Well, it would depend on the product line, but it  
12 would be someone in our delivery organization.

13 Very often the VP, or one of the people that was  
14 actually doing -- the VP of the organization, or one of the  
15 people who was actually doing the support, the technical  
16 aspects of the support, would get on the phone and discuss  
17 those complexities with the technical person at the  
18 prospective customer.

19 Q. Another thing you said that happened during the  
20 sales cycle is there would be a legal review. Can you tell  
21 us a little bit more about that?

22 A. A legal review, is that what you -

23 Q. I wrote it down. Did you say --

24 A. I thought you said eagle review.

25 Q. I'm sorry. A legal review.

1 Can you explain to the jury what that entailed?

2 A. Yeah. I mean, it could be a variety of things, but  
3 always it was a legal person on the customer side going  
4 through our contract to determine that they agreed with the  
5 terms in the contract and it was sufficient for them.

6 Also, as part of the legal review, they very  
7 often were going through their own contracts to ensure that  
8 their contracts entitled and enabled them to become a  
9 customer of ours.

10 Q. On average, how long does the process that you've  
11 described to us take from the initial call with a client  
12 until that client signs up with Rimini Street?

13 A. It's somewhat product dependent, but I would say on  
14 average three to six months.

15 Q. And why does it take so long?

16 A. Well, typically customers do a lot of due diligence,  
17 and it's a long cycle. They don't just sign a contract. I  
18 wish they did, but they don't.

19 And they ask a lot of questions and perform a  
20 lot of due diligence. And then the legal negotiations  
21 often take multiple weeks as well.

22 Q. You were asked by Oracle's counsel about your  
23 understanding based on discussions with customers and your  
24 salespeople that when customers don't choose Rimini, they  
25 usually choose Oracle. Do you recall that line of

1 testimony?

2 A. I do, yes.

3 Q. Do you also have an understanding based on your  
4 discussions with your customers and your salespeople why  
5 people are choosing to leave Oracle?

6 A. Sure.

7 Q. And what is that understanding?

8 MR. ISAACSON: Objection, Your Honor.

9 THE COURT: Sustained.

10 BY MS. CHUANG:

11 Q. During the sales process or the sales cycle we've  
12 been talking about, if a customer asks whether a certain  
13 practice is permissible under their license agreement with  
14 Oracle, what would be your typical response?

15 A. My typical response would be that they would have to  
16 go back to their legal team to review their contract and  
17 make that determination.

18 Q. And have there been instances, after you were hired  
19 until December of 2011, where you've seen that a client  
20 asks for Rimini's opinion and Rimini has responded?

21 A. I have seen that, yes.

22 Q. Can you give the jury an estimate of how many times  
23 that you've personally observed that happening from the  
24 time you came onboard to the end of 2011?

25 A. Where an opinion was given?

1 Q. Right.

2 A. Less than 10.

3 Q. Less than 10?

4 A. Yes.

5 Q. Have you ever personally advised a potential client  
6 about any provision in their underlying contract with  
7 Oracle?

8 A. No, I have not.

9 Q. As part of your duties as senior vice-president of  
10 sales, would it be part of your responsibility to  
11 understand why customers choose to come to Rimini?

12 A. Sure. I think that -- sure, yes.

13 Q. And I think you testified that you need to  
14 understand the competition; right?

15 A. Yes.

16 Q. Are you personally aware of any instances where a  
17 customer has chose Rimini's services because Rimini hosted  
18 that client's software on its servers?

19 A. Can you repeat that again, please?

20 Q. Sure. Are you personally aware of any instances  
21 where a customer signed on with Rimini, chose Rimini Street  
22 because Rimini Street hosted that client's software on its  
23 servers?

24 MR. ISAACSON: Objection, Your Honor.

25 THE COURT: Sustained.

1 BY MS. CHUANG:

2 Q. Based on your experience, Mr. Maddock, what are some  
3 of the reasons that clients choose Rimini Street?

4 MR. ISAACSON: Objection, Your Honor.

5 THE COURT: Overruled.

6 THE WITNESS: There's a variety of reasons. I  
7 mean, the cost savings is certainly one of them, also  
8 dissatisfaction with the support levels that they're  
9 receiving at Oracle, and, in many cases, we hear that they  
10 don't like doing business with Oracle. They don't like the  
11 way that they've been treated.

12 MS. CHUANG: No further questions.

13 THE COURT: Redirect examination?

14 REDIRECT EXAMINATION

15 BY MR. ISAACSON:

16 Q. A couple minor points, Mr. Maddock.

17 I think you referred to an average  
18 three-and-a-half-minute response time to phone calls for  
19 service; is that right?

20 A. That's what our delivery team was averaging,  
21 certainly in the earlier years, from what I remember, yes.

22 Q. All right. And the vast majority of inquiries,  
23 however, that you get for support are not through phone  
24 calls, those would be -- those would come through email or  
25 web requests; right?

1 A. I actually don't know that for sure, no.

2 Q. You don't know one way or the other how -- whether  
3 customers are principally dealing with you for support  
4 through the phone or through the web?

5 A. No, I don't.

6 Q. Okay. Now, you've talked with your counsel and you  
7 talked with me about when technical questions would come  
8 up, you would refer the customer to someone more technical.  
9 Do you remember that generally?

10 A. Yes.

11 Q. Okay. Now, for Siebel during this 2008 through 2011  
12 period, that would principally have been Mr. Chiu?

13 A. That's correct, yes.

14 Q. Dennis Chiu?

15 A. Dennis Chiu, yes.

16 Q. And for JD Edwards, that would be Mr. Grigsby?

17 A. That's correct, or some -- or someone in his  
18 organization.

19 Q. All right. And just in terms of your background, as  
20 I understand it you actually managed software  
21 implementation. How many years did you do that?

22 A. I was at Anderson for four or five years. Five  
23 years.

24 Q. Did you manage software implementation in any other  
25 part of your career?

1 A. No, I did not.

2 Q. And after managing software implementation for four  
3 or five years, I guess by 1998 you were talking to  
4 PeopleSoft customers about support; is that right?

5 A. I mean, that's what I did when I got to PeopleSoft.  
6 That's where I learned the support business, yes.

7 Q. Right. And it is true that in terms -- during the  
8 period you've been with the company, most inquiries from  
9 customers go to your sales staff and not to you directly;  
10 correct?

11 A. Most inquiries during the sales process?

12 Q. Yes, from customers?

13 A. That's correct, yes.

14 Q. Okay. And when you write FAQs, those are for  
15 frequently asked questions, not for infrequently asked  
16 questions; correct?

17 A. They are for questions that I would say come up in  
18 10 percent of the conversations or more.

19 Q. The actual title is Frequently Asked Questions;  
20 right?

21 A. That's correct.

22 Q. And you're not aware of any document in this case  
23 that says that the questions we are talking about says  
24 these are infrequently asked?

25 A. No, I'm not.

1 Q. Okay. Your counsel asked you about how your sales  
2 went up after Oracle filed this lawsuit in January of 2010.  
3 Do you remember that?

4 A. I remember -- yeah, I remember her asking what  
5 happened to the numbers, yes.

6 Q. Okay. After Oracle filed this lawsuit, Rimini  
7 continued to have as its standard messaging to clients that  
8 Rimini did not share software between customers. Isn't  
9 that correct?

10 A. Yes, it is.

11 Q. Okay. And after Oracle filed this lawsuit out there  
12 in the marketplace, Rimini's standard messages continued to  
13 be that they were obeying the customer's license agreement,  
14 that they were abiding by it?

15 A. Yes.

16 Q. Okay. And after Oracle filed this lawsuit, it  
17 was -- Rimini's standard messaging continued to be that  
18 they didn't use one customer's development environment for  
19 another; correct?

20 A. Yes.

21 Q. Okay. Sir -- and after this lawsuit was filed,  
22 generally you kept saying that your business was legal and  
23 you had not violated Oracle's copyrights; correct?

24 A. That's correct.

25 Q. And those frequently asked questions about your



1 practice became more frequent after the lawsuit was filed;  
2 is that fair?

3 A. I would say in 2010 that is fair.

4 Q. Okay. And am I correct that for the period that  
5 you've been at the company, December 2008 through the end  
6 of 2012, including after Oracle filed this lawsuit, that  
7 you're not aware of a single customer of Rimini Street that  
8 was told that Rimini Street reused fixes and updates all  
9 the time, reused them from one customer to another?

10 A. You're asking if I'm aware if that had happened?  
11 No, I'm not aware that that was ever told to a customer.

12 Q. As far as you know that during that time period,  
13 zero customers were told that; correct?

14 A. As far as I know, yes.

15 Q. And during that period, 2008 to the end of 2012,  
16 including after the filing of this lawsuit, as far as you  
17 know, zero customers were told about a library of software  
18 that was maintained at Rimini Street for -- to support  
19 customers generally; correct?

20 A. Correct.

21 Q. Okay. They weren't told that there was a software  
22 library to build environments, were they?

23 A. As far as I know, no.

24 Q. And, in fact, to your knowledge, after this lawsuit  
25 was filed, Rimini said to this Court that that library did

1 not exist; correct?

2 A. Could you repeat that again, please?

3 Q. Okay. Rimini denied -- after this lawsuit was  
4 filed, to your knowledge, Rimini denied in court that the  
5 library existed; correct?

6 A. I'm not aware that that was denied in court, no.

7 Q. Okay. And from 2008 to the end of 2012, including  
8 after this lawsuit was filed, to your knowledge, zero  
9 customers were told about a practice at Rimini Street of  
10 cloning one client's environment to create another;  
11 correct?

12 A. That's correct, yes.

13 Q. And from 2008, during the period you were at the  
14 company, the end of 2008, through 2012, including the  
15 period after this lawsuit was filed, zero customers were  
16 told, to your knowledge, that Rimini had general testing  
17 and development environments full of Oracle software that  
18 it was using to support multiple clients?

19 A. To the best of my knowledge, no, no one was told  
20 that, yes.

21 MR. ISAACSON: I have no further questions.

22 THE COURT: Recross-examination?

23 MS. CHUANG: No, thank you, Your Honor.

24 THE COURT: All right. Mr. Maddock, that will  
25 complete your testimony. You may step down. Thank you.

1 MR. RINGGENBERG: Your Honor, we have next two  
2 very short video depositions, both about five minutes each.

3 Ladies and gentlemen, you'll next hear from  
4 Graham Carter of SonicWall. He was a customer of Rimini  
5 Street's at issue in the case. It's about five minutes.

6 (Videotape deposition of Graham Carter played  
7 as follows:)

8 "MR. HIXSON: Good morning. My name is  
9 Tom Hixson. I represent Oracle in this  
10 matter. Would you please state your name for  
11 the record.

12 A My name is Graham Carter.

13 PAGE 9:21 TO 10:08 (RUNNING 00:00:47.506)

14 Q How long have you worked at SonicWALL?

15 A Since February of 2006, so five years.

16 Q What is your current position at SonicWALL?

17 A I'm an IT director in charge of  
18 applications.

19 Q Can you describe generally what your  
20 responsibilities are as IT director?

21 A We provide -- specifically integration and  
22 business analytics is my areas of expertise.

23 Q How long have you been in that position?

24 A Approximately two and a half years.

25 Q What position did you have before being the

1 IT director?

2 A I was the CRM manager.

3 PAGE 10:18 TO 10:23 (RUNNING 00:00:15.777)

4 Q Do you recall generally what your  
5 responsibilities were at SonicWALL from the  
6 time that you started until you became CRM  
7 manager?

8 A Yes, I was brought in to help implement a  
9 support -- support renewal application with a  
10 third-party vendor.

11 PAGE 10:24 TO 11:09 (RUNNING 00:00:20.029)

12 Q Does SonicWALL use Siebel software?

13 A Yes.

14 Q Do you recall during what period of time  
15 they did?

16 A No, certainly it was here when I arrived in  
17 2006.

18 Q Does SonicWALL still use Siebel software?

19 A No.

20 Q Was this customer relationship management  
21 software?

22 A Yes.

23 PAGE 12:03 TO 12:05 (RUNNING 00:00:11.237)

24 Q Do you recall when SonicWALL stopped using  
25 Siebel?

1 A February of 2009.

2 PAGE 16:22 TO 16:24 (RUNNING 00:00:06.009)

3 Q If Rimini Street support had cost as much  
4 as Oracle's would SonicWALL have switched?

5 A No.

6 PAGE 19:07 TO 19:10 (RUNNING 00:00:09.981)

7 Q When SonicWALL was deciding to go to  
8 Rimini, had SonicWALL already made the  
9 decision that it was going to migrate off of  
10 Siebel?

11 A Absolutely, yes.

12 PAGE 20:01 TO 20:03 (RUNNING 00:00:08.880)

13 Q Was it important to SonicWALL that Rimini  
14 be able to provide service near the quality  
15 of Oracle's?

16 A Yes.

17 PAGE 20:17 TO 21:02 (RUNNING 00:00:22.760)

18 Q Did SonicWALL consider going to any  
19 third-party support providers other than  
20 Rimini?

21 A No.

22 Q Did SonicWALL consider going to  
23 self-support for Siebel?

24 A Yes.

25 Q Was there a decision made not to do

1 self-support?

2 A Yes.

3 Q What were the reasons for that decision?

4 A Primary risk.

5 PAGE 21:03 TO 21:05 (RUNNING 00:00:05.934)

6 Q Meaning there was some risk to SonicWALL if  
7 it went with self-support?

8 A Correct, yes.

9 PAGE 21:06 TO 21:15 (RUNNING 00:00:30.790)

10 Q Who within SonicWALL made the decision not  
11 to do self-support?

12 A It was a joint decision between the CIO and  
13 myself.

14 Q And you both agreed that self-support was  
15 too risky; is that correct?

16 A Correct.

17 Q At the time were you aware of any  
18 third-party support providers for Siebel  
19 other than Rimini Street?

20 A No.

21 PAGE 21:20 TO 21:24 (RUNNING 00:00:11.068)

22 Q BY MR. HIXSON: Can you remember that  
23 Rimini was the only third-party support  
24 provider that you gave serious consideration  
25 to.

1 Does that sound right?

2 A Yes.

3 PAGE 21:25 TO 22:03 (RUNNING 00:00:11.920)

4 Q Since dropping Oracle support has SonicWALL  
5 ever considered going back to Oracle support  
6 for CRM software?

7 A We no longer use Oracle CRM products, so,  
8 no.

9 PAGE 42:21 TO 43:01 (RUNNING 00:00:22.817)

10 Q BY MR. HIXSON: If SonicWALL had knowledge  
11 at the time that it entered into the support  
12 agreement with Rimini that Rimini had a  
13 business model that involved the improper use  
14 of intellectual property, would that factor  
15 have made it less likely that SonicWALL would  
16 have signed up for service with Rimini?

17 PAGE 43:05 TO 43:10 (RUNNING 00:00:22.878)

18 THE WITNESS: Yes.

19 Q BY MR. HIXSON: Is it fair to say that if  
20 SonicWALL had knowledge at the time that it  
21 entered into the support agreement with  
22 Rimini, if Rimini business model involved  
23 improper use of intellectual property that  
24 SonicWALL would not have contracted with  
25 Rimini?

1 PAGE 43:12 TO 43:12 (RUNNING 00:00:01.292)

2 THE WITNESS: Yes.

3 PAGE 46:12 TO 46:22 (RUNNING 00:00:36.331)

4 Q BY MS. REDMOND: Okay. When did you -- or  
5 when did SonicWALL enter agreement with  
6 Salesforce to purchase their software, do you  
7 recall?

8 A 2006, yeah, that's right.

9 Q 2006?

10 A Um-hum.

11 Q Okay. My understanding from your testimony  
12 is whether or not SonicWALL moved to Rimini  
13 Street for support SonicWALL had made the  
14 decision to purchase new software from  
15 Salesforce.com; is that correct?

16 A Correct.")

17 (Deposition ends.)

18 MR. RINGGENBERG: And we have another deposition  
19 of Mr. James Ward of Wendy's, also about five minutes, and  
20 that's also a customer of Rimini Street.

21 (Videotape deposition of James Ward played as  
22 follows:)

23 PAGE 7:09 TO 7:12 (RUNNING 00:00:09.010)

24 "Q. Can you please state your name and  
25 spell your last name for the record?



1           A. It's James K. Ward, and the last name is  
2           W-a-r-d. I go by the name of "Jim".

3           PAGE 10:08 TO 10:19 (RUNNING 00:00:22.571)

4           Q. Have you been designated by Wendy's  
5           to testify on the company's behalf with  
6           respect to these topics today?

7           A. Yes.

8           Q. Now, during today's deposition, I may ask  
9           -- phrase some of my questions in terms of  
10          what Wendy's did or Wendy's said rather than  
11          you personally. Do you understand that the  
12          reason I'm doing is because Wendy's has  
13          designated you to testify on behalf of the  
14          company with regard to these topics?

15          A. Yes.

16          PAGE 13:13 TO 14:06 (RUNNING 00:00:38.697)

17          Q. Okay. Mr. Ward, how long have you worked  
18          at Wendy's?

19          A. I've worked a total of just about 26  
20          years.

21          Q. What is your current position there?

22          A. My current position is director of  
23          solutions delivery for the information  
24          technologies department.

25          Q. Could you just generally describe what

1           your job responsibilities are in that  
2           position?

3           A. My current responsibilities reside in --  
4           over the store systems area for company-owned  
5           stores. I'm in charge of the  
6           back office and the POS systems as well as  
7           our data warehousing that takes place along  
8           with business intelligence or more commonly  
9           known as "BI".

10          PAGE 15:13 TO 15:18 (RUNNING 00:00:08.055)

11          Q. Does Wendy's use PeopleSoft software  
12          today?

13          A. They do not.

14          Q. Has Wendy's used PeopleSoft software in  
15          the past?

16          A. Yes.

17          PAGE 17:22 TO 18:07 (RUNNING 00:00:33.769)

18          Q. Mr. Ward, generally, do you know what  
19          PeopleSoft products or modules, people --  
20          Wendy's used?

21          A. Yes.

22          Q. Which products were those?

23          A. It was 8.3 HMRS, which is the payroll and  
24          HR module.

25          Q. Were there any other modules that Wendy's

1           used that were PeopleSoft software?

2           A. Yeah. It was 8.4 finance. Each one of  
3           those areas included People Tools.

4           PAGE 30:07 TO 30:16 (RUNNING 00:00:26.023)

5           Q. You just mentioned that you had heard some  
6           other parties' names, but you can't recall  
7           them. Did Wendy's consider going to any  
8           other third-party support providers other  
9           than Rimini Street at this time?

10          A. Well, we -- we looked at Oracle, as going  
11          back to a support model as well as Rimini  
12          Street. And, again, there was -- there was a  
13          couple more on the list, and I can't recall  
14          what they are, so we looked at them briefly.

15          PAGE 32:04 TO 32:08 (RUNNING 00:00:07.963)

16          Q. Did Wendy's view self-support as risky  
17          because they were unable to have --

18          A. Not so much.

19          Q. -- the capacity?

20          A. No.

21          PAGE 42:20 TO 43:07 (RUNNING 00:00:29.053)

22          Q. Generally, as you sit here today, do you  
23          have an understanding of what sets Rimini  
24          Street apart from TomorrowNow?

25          A. Yes.

1 Q. And what is that?

2 A. Well, it's -- those business practices.  
3 It's -- it's all I can state is the business  
4 practices that took place with TomorrowNow  
5 didn't exist with Rimini Street.

6 Q. All right. Is that belief based on  
7 representations that were made by Rimini  
8 Street?

9 A. Yes.

10 PAGE 43:08 TO 43:10 (RUNNING 00:00:05.812)

11 Q. Do you remember specifically who made  
12 those representations to you?

13 A. No.

14 PAGE 43:11 TO 43:21 (RUNNING 00:00:21.909)

15 Q. So at the time of this email, did Wendy's  
16 believe that Rimini was using a different  
17 support model than TomorrowNow?

18 A. Yes.

19 Q. Did Wendy's believe that Rimini's support  
20 model was lawful?

21 A. Yes.

22 Q. And just to clarify, that was based on the  
23 representations that were made by Rimini  
24 Street; is that correct?

25 A. Yes.

1 PAGE 46:01 TO 46:04 (RUNNING 00:00:08.644)

2 Q. Would Wendy's have switched to Rimini  
3 Street for support if Wendy's believed that  
4 Rimini Street provided support in any way

5 PAGE 46:06 TO 46:11 (RUNNING 00:00:08.866)

6 THE WITNESS: No.

7 Q. Would Wendy's have switched to Rimini  
8 Street for support if Wendy's believed that  
9 Rimini Street provided support in a way that  
10 went beyond the scope of their PeopleSoft  
11 license agreement?

12 PAGE 46:13 TO 46:13 (RUNNING 00:00:01.808)

13 THE WITNESS: No.

14 PAGE 75:01 TO 75:05 (RUNNING 00:00:08.746)

15 Q. If Wendy's believed that Rimini Street had  
16 a business model that involved the improper  
17 use of intellectual property, would Wendy's  
18 have contracted with Rimini Street for  
19 support?

20 PAGE 75:08 TO 75:13 (RUNNING 00:00:10.598)

21 THE WITNESS: No.

22 Q. If Wendy's believed that Rimini had a  
23 business model that involved the improper use  
24 of intellectual property, would that have  
25 made Wendy's less likely to provide

1 references to other Rimini Street customers?

2 PAGE 75:15 TO 75:15 (RUNNING 00:00:00.716)

3 THE WITNESS: Yes.

4 PAGE 79:14 TO 79:21 (RUNNING 00:00:18.166)

5 Q. And I believe you mentioned that  
6 self-support -- you didn't do self-support  
7 because of budget constraints?

8 A. Yeah. It would take additional resources,  
9 internal, and we were looking to reduce  
10 internal resources at the time.

11 Q. Okay. Could Wendy's have done  
12 self-support if it had sufficient manpower?

13 PAGE 79:24 TO 79:24 (RUNNING 00:00:01.159)

14 THE WITNESS: Yes.")

15 (Deposition ends.)

16 THE COURT: All right.

17 MR. ISAACSON: Your Honor, may I approach?

18 THE COURT: Yes.

19 (Sidebar conference held as follows:)

20 MR. ISAACSON: This is about the limiting  
21 instruction which you gave earlier today.

22 The first video was about a JDE customer. The  
23 second video was about a Siebel customer. Both of those  
24 copyright liability remains contested.

25 This was a PeopleSoft customer for which the

1 Court has found liability. In the limiting instruction  
2 that the Court gave, you said determining copyright  
3 liability is going to be your job, which I think could be  
4 confusing to them.

5 And, in a nonprejudicial manner, I think you  
6 should advise them that you've made a determination of  
7 PeopleSoft -- while some -- they're going to be deciding  
8 some issues of copyright liability, you've already made a  
9 determination as to PeopleSoft liability.

10 MS. CHUANG: I think they'll be instructed on  
11 that at the end of the case. What I suggest is that we do  
12 not -- we -- obviously with the limiting instruction at  
13 this point, but they'll be advised of that.

14 THE COURT: All right. I'm concerned that my  
15 previous limiting instruction would be confusing so I'm  
16 going to attempt a clarification.

17 MR. ISAACSON: Okay. Thank you.

18 (Sidebar conference concluded.)

19 THE COURT: Ladies and gentlemen, you may recall  
20 that I gave you a limiting instruction earlier with regard  
21 to the nature of the questions being asked of customers  
22 such as -- essentially, there have been I think three or  
23 perhaps four different customers who have testified.

24 My limiting instruction would not apply to this  
25 last witness for the reason that he, the representative of

1 Wendy's -- which I'm sure everyone's familiar with  
2 Wendy's -- Wendy's was a company which was using  
3 PeopleSoft.

4 And the Court has previously made a  
5 determination that there was an improper use of the  
6 PeopleSoft software by Rimini Street in connection with  
7 PeopleSoft. So, for that reason, the limiting instruction  
8 would not apply.

9 However, you should still consider the testimony  
10 as you would with any other witness. And I hope I've  
11 clarified that sufficiently.

12 At this time, we will take our luncheon break,  
13 and that will be approximately 20 minutes, give or take.  
14 When you're ready, let us know.

15 All the admonitions apply.

16 COURTROOM ADMINISTRATOR: Please rise.

17 THE COURT: You may step down.

18 (Recess from 12:09 p.m. until 12:33 p.m.)

19 COURTROOM ADMINISTRATOR: Court is again in  
20 session.

21 THE COURT: Have a seat, please.

22 The record will show that we are in open court.  
23 The jury is all present. Counsel and the parties are  
24 present.

25 And I understand that plaintiffs have a witness



1 to call. Is that correct, Ms. Dunn?

2 MS. DUNN: Thank you, Your Honor.

3 Oracle calls Edward Screven.

4 COURTROOM ADMINISTRATOR: Please raise your  
5 right hand.

6 You do solemnly swear that the testimony you  
7 shall give in the cause now before the Court shall be the  
8 truth, the whole truth, and nothing but the truth, so help  
9 you God?

10 THE WITNESS: I do.

11 COURTROOM ADMINISTRATOR: Please be seated.

12 Please state your name and spell your name for  
13 the record.

14 THE WITNESS: Yes, my name is Edward Screven;  
15 that's E-d-w-a-r-d, S-c-r-e-v-e-n.

16 COURTROOM ADMINISTRATOR: Please tell us your  
17 city and state of residence.

18 THE WITNESS: Yes, I live in Portola Valley,  
19 California.

20 THE COURT: All right. Go ahead, please.

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EDWARD SCREVEN

called as a witness on behalf of the  
Plaintiffs, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. DUNN:

Q. Good afternoon, Mr. Screven. How are you?

A. Good.

Q. Where do you work?

A. I work for Oracle.

Q. How long have you worked for Oracle?

A. I joined Oracle in 1986, so almost 30 years.

Q. And please tell the jury what you did before you  
worked for Oracle?

A. I was in college at Carnegie Mellon University.

Q. Okay. And in college what did you study?

A. I studied applied mathematics and computer science.

Q. Did you graduate from college?

A. I did not.

Q. Why not?

A. Well, I got recruited by Oracle and decided to go  
work for Oracle.

Q. Okay. How did that happen?

A. Oracle came on campus recruiting folks, and my  
résumé was in a résumé book.

They called me up and asked me if I wanted to

1       come out and visit in California. And being in Pittsburgh,  
2       that sounded like a pretty good idea.

3               So I went there, I interviewed, they gave me a  
4       job offer before I left, and so I decided that is what I  
5       wanted to do.

6       Q.     And you've been there ever since?

7       A.     Ever since.

8       Q.     Okay. What was your job when you first started at  
9       Oracle in 1986?

10      A.     When I first started, I was a programmer in our  
11     applications division. So the company had just started  
12     building business applications, and that was my first job.

13      Q.     You've been there for about 30 years. Can you tell  
14     the jury a little bit about how Oracle has changed since  
15     you first got there?

16      A.     Yes. When I first started at Oracle, Oracle was  
17     small. They were about 400 employees total in the world.

18               We had one real product, the Oracle Database.  
19     And over the years we've started adding on to that set of  
20     software that we built.

21               So we started building business applications.  
22     We started building something called middleware, which is  
23     how you actually make applications run on top of a  
24     database.

25               We eventually acquired a company called Sun

1     Microsystems that made computers and storage. So we began  
2     to offer basically the complete stack of hardware and  
3     software that customers need to run their enterprise,  
4     whether they're governments or hospitals or businesses,  
5     schools.

6             And today we actually have 130,000 employees  
7     around the world. So the company has grown a lot over 30  
8     years.

9     Q.     And as someone who started out as a programmer, are  
10    you proud of the company?

11    A.     I'm very proud of Oracle, yes.

12    Q.     Okay. So let's talk about you. How has your job  
13    changed over the past 30 years?

14    A.     After I was a programmer in the applications  
15    division, I moved over to start working on the tools that  
16    are used to build applications.

17             I became a manager of programmers. I went to  
18    work for one of our founders in an advanced products group.

19             Then I started working for our CEO, Larry  
20    Ellison, as a technical staff person, and that job  
21    eventually grew into becoming what is my current role, my  
22    current title, Chief Corporate Architect.

23    Q.     And Chief Corporate Architect, is that pretty high  
24    up in the company?

25    A.     Yes, I report directly to our CEO. I have about

1 2,000 people reporting to me.

2 Q. What do you do as Oracle's Chief Corporate  
3 Architect?

4 A. Well, my job is to make sure that our products and  
5 technologies work together to help solve customer problems,  
6 to help make sure that we can manage the information that  
7 our customers have that is critical to their businesses.

8 So I make sure the groups can work together  
9 well, I make sure that the technology choices that we're  
10 making are reasonable and consistent.

11 I get involved in our mergers and acquisitions.  
12 So if there's a company out there that we think may add to  
13 our portfolio in a positive way, then we need to evaluate  
14 the technology.

15 I'm also in charge of security at Oracle. So  
16 that includes physical security and information security  
17 and something called product information assurance.

18 Q. So primarily today I'm going to ask you questions  
19 about security. And you mentioned product assurance and  
20 information security. And I want you to just explain to  
21 the jury in a little more detail what those two things are.

22 A. So product information assurance is the set of  
23 policies and procedures and processes that we have to make  
24 sure that the products that we build and deliver to  
25 customers are secure, that they don't have vulnerabilities,

1 that our customers can use them to create secure systems.

2 That group also deals with vulnerabilities. So  
3 sometimes vulnerabilities are discovered in our  
4 technologies and we need to respond to them.

5 So we need to understand what the vulnerability  
6 is. We need to work with engineering to make sure they fix  
7 the vulnerability, and then we need to deliver that fix to  
8 the end customer.

9 The information security team is more inwardly  
10 focused. So what they do is they work to make sure that  
11 our internal systems are actually secure; to make sure that  
12 they're all patched and up to date; to make sure that  
13 they've been configured in a way which protects them from  
14 attack; and to make sure that the information that we store  
15 about our business and also the information that we store  
16 that belongs to our customers that we maintain is also  
17 secure.

18 Q. Okay. So just to be completely clear, and I'll say  
19 this simply, so tell me if I'm wrong, but the one kind of  
20 security you're talking about is really security of  
21 Oracle's servers and Oracle's information held at Oracle;  
22 and the other kind of security has to do with how Oracle is  
23 helping its customers secure their data?

24 A. That's right.

25 Q. Is that right?

1       A.       That's a very good summary.

2               So product information assurance is how we make  
3       sure that our customers can secure their data using our  
4       products, and then the information security team is about  
5       how we secure our own systems that we use ourselves and  
6       that we run on behalf of our customers.

7       Q.       Okay. So, first, before we talk about security, you  
8       had also said that you provide technical direction across  
9       Oracle's products.

10              So the jury already knows by this point  
11       extremely well that the products at issue in this case are  
12       Database, Siebel, JD Edwards, and PeopleSoft.

13              What's your technical responsibility for those  
14       products in particular?

15       A.       Well, as in general, I am responsible for making  
16       sure that technology choices that are being made in terms  
17       of how we build those products, how we maintain those  
18       products and evolve them over time make sense; that they  
19       are lined up with our company strategy; that they're  
20       consistent with choices we're making in other product  
21       areas; and that it's possible to integrate those  
22       applications and those technologies with other applications  
23       and other technologies that our customers may want to use.

24       Q.       What does it take to build an enterprise software  
25       application from scratch?

1       A.       Well, it's hard and long and expensive.

2               So enterprise applications need to address  
3 complex requirements for lots of different kinds of  
4 enterprises, so governments, you know, hospitals, schools,  
5 companies, companies that are large, companies that are  
6 small, companies that operate in the United States,  
7 companies that operate in Brazil and other places.

8               And so understanding all of those requirements  
9 is hard. It takes a long time.

10              Designing, designing a database schema, the  
11 structure that's used in the database to store all of the  
12 data that you need in order to support the business  
13 processes of those enterprises takes a very long time.

14              Writing all the code to manipulate the data and  
15 present the data to the users and accept data from the  
16 users is large.

17              So it's, you know, millions and millions of  
18 lines of code for every application, and thousands,  
19 literally thousands of programmers working on it to deliver  
20 those applications.

21       Q.       And Oracle copyrights its software; right?

22       A.       Yes, we do.

23       Q.       Why does it do that?

24       A.       Well, if we did not copyright our software, then it  
25 would mean that other parties could take our software and



1 use it and sell it without paying us, and what that would  
2 mean is that we could not then employ the thousands and  
3 thousands of engineers that we have to employ to build that  
4 software.

5 Q. Does Oracle disclose that its software and support  
6 materials are copyrighted?

7 A. Yes, it's very, very easy to see that our software  
8 is copyrighted. So on websites you see copyright notices,  
9 on screens of the applications themselves you see copyright  
10 notices.

11 Within the documentation you see copyright  
12 notices.

13 On the physical disks which are the installation  
14 media you see copyright notices.

15 Within the source code files themselves -- so  
16 the source code files are what programmers create in order  
17 to actually generate the application. Every single one has  
18 at the top a copyright notice.

19 It's very, very plain to everyone that our  
20 software is copyrighted.

21 Q. All right. So let's talk now about security. Does  
22 Oracle have a particular philosophy about security?

23 A. Yes. We believe in something called defense in  
24 depth. And what defenses in depth means is that you put  
25 security layers at multiple places.

1           So starting at the lowest level, you have  
2 security in the database, that you use database features  
3 that we've designed to lock down the data and make sure  
4 that people who are not authorized to get the data or  
5 change the data, that they cannot do that.

6           We put security functionality in our middleware.  
7 The middleware, again, is the software that sits in between  
8 the application and the database. So there are security  
9 features in our middleware to help protect the data.

10           In our applications themselves, there are  
11 security features to make sure that only authenticated,  
12 authorized users have access to the information that  
13 they're supposed to have access to.

14       Q.     So with those two categories that we discussed,  
15 securing the data and servers and everything at Oracle, and  
16 then helping customers secure their data, let me first ask  
17 you what steps Oracle takes to secure its own data and  
18 information?

19       A.     Well, information that we use ourselves internally  
20 inside the company, of course, we apply that defense in  
21 depth technique.

22           I mean, for one thing, we use Oracle technology  
23 for our own data, to manage our own data. We use database  
24 security features that protect the data. We use middleware  
25 security features. We use application security features.

1           We also use features in the environment like  
2           firewalls and other mechanisms to help secure that data.

3           Now, we have to actively manage that environment  
4           because, you know, there are threats that arise all the  
5           time. Hackers are very clever, they're very motivated,  
6           they have a lot of resources.

7           So that means that we always have to be aware of  
8           potential threats, potential new threats. And when new  
9           vulnerabilities are discovered, we have to immediately  
10          repair them. That means applying patches to the systems  
11          that we run to store that data and make sure that those  
12          vulnerabilities are closed off.

13          Q.     You mentioned hackers. How do you stay ahead of the  
14          hackers?

15          A.     Well, we have a large team that does a couple  
16          things. I mean, for one thing, they train themselves all  
17          the time on techniques that are used by hackers in order to  
18          break in the systems. And that particular team is called  
19          the ethical hacking team.

20                 They're called ethical because, let's face it,  
21          there are hackers out who are not ethical, okay, and they  
22          like to distinguish themselves from that crowd.

23                 Okay. So what they do is they stay current on  
24          the various kinds of tools and techniques that hackers use  
25          to break into systems.

1           And they use their knowledge to do a couple of  
2 things. One is they communicate to the rest of Oracle's  
3 engineering organization about the techniques that they  
4 need to protect against.

5           The other thing that they do is they actually  
6 try to break into our products. They try to actually break  
7 the security that's part of those products.

8           Sometimes they succeed. When they succeed, we  
9 know now there's a vulnerability that we have to close off.

10          Another important thing that we do with our  
11 products is we use automated tools. So both tools that  
12 we've licensed and tools that we've built ourselves, we run  
13 those tools against the software that we've built against  
14 the systems that we have and try to break into them.

15          So doing things like opening a network  
16 connection to the server and putting data into it that the  
17 server didn't expect. What happens? Did the server  
18 actually crash? Did the server correctly close off that  
19 connection?

20       Q.     All right. So now let's talk about the security  
21 that Oracle helps provide for its customers. Is that  
22 generally done in the form of security updates to Oracle's  
23 applications?

24       A.     Yes. For all of our software actually.

25           So what we do is every quarter, every three

1 months, we release something called a critical patch  
2 update.

3 A critical patch update is a collection of  
4 patches to our software that closes off security  
5 vulnerabilities that have been discovered, usually  
6 discovered by Oracle itself, sometimes discovered by people  
7 outside of Oracle.

8 So every three months we release a bundle of  
9 fixes to all of our software. Those bundles very often  
10 include fixes to PeopleSoft -- JD Edwards and PeopleSoft.

11 Q. What happens if there's some security issue that  
12 doesn't wait for the three months?

13 A. Yeah. So every once in a while, and this is not  
14 good when it happens, there is something called a zero day  
15 threat.

16 A zero day threat means that there is a known  
17 vulnerability that -- by known, I mean publicly known,  
18 publicly understood, that is being actively exploited, and  
19 so that means that we have to issue an emergency fix, what  
20 we call -- at Oracle we call it a security alert.

21 So that is a patch that we issue for the  
22 affected products that should be applied by our customers  
23 immediately, without delay, without waiting for that  
24 three-month cycle.

25 Q. Why does Oracle issue these security updates?

1       A.       Well, if a customer does not apply security updates,  
2 then their systems are vulnerable.

3               I mean, if -- if you do not patch the  
4 vulnerabilities in the software, then hackers will  
5 eventually, eventually find their way in to exploit that  
6 vulnerability.

7               So one thing that happens is that when Oracle  
8 releases a critical patch update or a security alert patch,  
9 even though it's not publicly known at the time,  
10 necessarily, about those vulnerabilities existing, people  
11 out there in the world, they reverse engineer those  
12 patches, they look at what we actually fixed.

13              And when they know what we fixed, then they know  
14 what they can exploit. And so it becomes essential for  
15 customers to apply those patches on a regular basis.

16              That's why, in fact, we issue those critical  
17 patch updates on a scheduled basis so you know one year in  
18 advance when a given critical patch update is going to be  
19 released, so therefore you can schedule the resources you  
20 need to have your people ready to apply those fixes as soon  
21 as we release them.

22       Q.       And you said you'd been at Oracle for about 30  
23 years. How long have you been working in security?

24       A.       It's about 20 years. I got involved in security  
25 actively at Oracle in the mid 1990s.

1 Q. And are the security issues that you're dealing with  
2 today essentially different or similar to the issues you  
3 were dealing with 20 years ago?

4 A. It's much worse today. If you read the newspaper,  
5 you read about, you know, really terrible breaches, you  
6 know, that occur on a regular basis.

7 And the reason that happens is that, you know,  
8 the number of people out there who are trying to break into  
9 systems is higher, their motivation is much greater,  
10 because hackers have figured out they can make money by  
11 breaking into systems.

12 They steal credit card numbers and sell them.  
13 They get sensitive company information and use it for  
14 financial gain.

15 So hackers have better tools, there are more of  
16 them, and they have financial motivation, and so the rate  
17 at which attacks, at least attempted attacks, occur is much  
18 higher than before, and the criticality of addressing  
19 vulnerabilities is much higher than before.

20 Q. Okay. So you mentioned credit card numbers which  
21 makes me want to ask whether there's some difference  
22 between the security you need for enterprise software which  
23 secures data that's personal to people like credit card  
24 numbers, and personal software that you might have at home?

25 A. Yes. So a hacker, of course, they want the most

1 important information from their target. You know, they  
2 want the most sensitive information from their target, and  
3 that more sensitive information is stored using enterprise  
4 applications.

5 So, for example, you know, a company may have a  
6 human resources application, and that human resources  
7 application is going to store social security numbers of  
8 all the employees.

9 They may -- they may have a payroll system.  
10 Well, that payroll system has the financial records of all  
11 of the employees, including their bank account numbers.

12 You know, they may have a customer relationship  
13 management system which stores sensitive information about  
14 all of the customers of a company.

15 But, actually, CRM is also used by governments.  
16 So to the government, the citizens are customers, and so  
17 they use CRM systems to actually store very sensitive  
18 information about the citizens.

19 So enterprise applications store the most  
20 sensitive, most critical data of large enterprises, and  
21 small enterprises too, for that matter.

22 Q. Do you have an example of a security update that  
23 Oracle has issued in the past that you can tell us about?

24 A. Sure. So in about 2012 timeframe, a security  
25 vulnerability was discovered in the Oracle Database.



1           So the database has something called a listener  
2           which listens on networks for connections.

3           And a vulnerability was discovered that meant  
4           that hackers could do something called the denial of  
5           service attack. They could cause the database to become  
6           unavailable to regular users.

7           In other words, they could disrupt the business  
8           operations enterprise, and so we had to fix that.

9           And that probably took us, you know, 30 people  
10          in order to close off that vulnerability.

11          It's expensive to fix these vulnerabilities.  
12          That's a reason why we spend a lot up front trying to avoid  
13          having vulnerabilities to begin with.

14          So 30 people, that includes people to understand  
15          what the vulnerability is, people to design a fix for the  
16          vulnerability, people to code a fix for the vulnerability,  
17          and people to test the fix.

18          So fixing vulnerabilities in software, you know,  
19          it takes resources, it takes people, it takes time.

20          Q.     And once Oracle develops a security update, can it  
21          refer a customer -- or because of a customer's problem, can  
22          it then issue the update to other customers?

23          A.     Yes. In fact, we do that all the time.

24          So if a customer reports to us a vulnerability  
25          that they have discovered, then we produce a fix to that

1 vulnerability, and, of course, we give it to all of our  
2 customers.

3 Q. All right. So what would happen if a customer did  
4 not update its software with a security update, or if they  
5 chose a kind of support that didn't come with security  
6 updates, what would happen then?

7 A. Well, what will happen is over time, as more and  
8 more vulnerabilities are discovered in the software they  
9 have deployed, they would become more and more at risk of  
10 being exploited, of having their most sensitive information  
11 taken or having their databases corrupted by an attacker.

12 So it's almost as if, you know, their  
13 installation of the software would basically just rot  
14 because they would become more and more vulnerable over  
15 time.

16 Q. So even if on day one it was not apparent that they  
17 were vulnerable, what you're saying is that over time the  
18 situation would get worse?

19 A. Yes, in fact, it really doesn't -- it would get  
20 worse because the knowledge in the public domain about the  
21 vulnerabilities of the software would go up.

22 And, actually, it doesn't actually take very  
23 much time because, you know, every three months Oracle  
24 issues critical patch updates.

25 So, in July, Oracle issued a critical patch

1 update which included fixes to vulnerabilities to  
2 PeopleSoft, JD Edwards, and Siebel. So a customer that did  
3 not apply that patch is vulnerable today, right now.

4 Over a year, the number of vulnerabilities they  
5 are exposed to is greater. Over five years, the number of  
6 vulnerabilities that they are exposed to are far higher.

7 Q. All right. So previously in this case the jury has  
8 heard a little bit about security. So I'd like to talk to  
9 you about some of the things that happened before you got  
10 here.

11 First, I'd like to show you an excerpt from  
12 Mr. Ravin's testimony last week where he describes Rimini  
13 Street's approach to security for customers, and he said it  
14 was called something -- he said it was called holistic  
15 security.

16 Have you ever heard of that?

17 A. No, no.

18 Q. Okay. So let's just look at the transcript and go  
19 through it together.

20 So if you look at the top on your screen, the  
21 question was,

22 "Rimini Street, at least until -- at least  
23 through 2011, did not provide any security updates to its  
24 clients.

25 "That's correct."

1                   The As are Mr. Ravin and the Qs are  
2                   Mr. Isaacson.

3                   "And, in fact, you actually told customers that  
4                   they weren't necessary -- you told them they weren't  
5                   necessary."

6                   And Mr. Ravin says, "Yes, that's because it's an  
7                   outdated model relative to what we call holistic security  
8                   today."

9                   So let me ask you about that. It sounds like  
10                  Mr. Ravin is saying that the security updates are an  
11                  outdated model.

12                  Do you have any reaction to that?

13                  A. I do. That's totally ridiculous. It's completely  
14                  and totally ridiculous.

15                  Q. Why?

16                  A. Because you must patch software vulnerabilities in  
17                  order to avoid being vulnerable. If all you do is you set  
18                  up firewalls around systems, you are making a grave, grave  
19                  mistake.

20                  Hackers will and do on a regular basis penetrate  
21                  through firewalls. They send people poison email messages  
22                  that set up relay stations that let them get into your  
23                  networks.

24                  All you have to do is look at the news. The  
25                  Federal Government, the Office of Personnel Management,

1 definitely firewalled, millions, millions of records stolen  
2 from them by hackers.

3 Home Depot, millions of credit card numbers  
4 stolen from them. They definitely have firewalls.

5 You must -- you must patch your systems in order  
6 to be secure.

7 Q. All right. So let's keep going.

8 The question Mr. Isaacson then asks is,  
9 "Holistic security means don't put security in the  
10 software, just put it in the firewall at your place of  
11 business; right?"

12 Mr. Ravin says, "It's actually the most  
13 innovative version available today for security people."

14 And then Mr. Isaacson says, "But it involves not  
15 putting any security updates in the software to deal with  
16 hackers."

17 And Mr. Ravin says, "It's called virtual  
18 patching and firewall systems."

19 And then the question is, "And the firewall  
20 systems are systems that are maintained by the client, the  
21 customer, not by Rimini Street for the customer; right?"

22 And Mr. Ravin says, "That's correct. They," the  
23 customer, "are responsible for their own firewalls and  
24 their own security protection."

25 What's your view, Mr. Screven, on whether having

1 a customer be responsible for their own firewalls is  
2 sufficient security protections for the data that you've  
3 previously described?

4 A. It is grossly insufficient. Every single -- every  
5 single customer that you -- that's out there has firewalls.

6 When you read the news and you read about  
7 security incidents that have happened, all of those  
8 incidents have happened despite firewalls.

9 Firewalls are necessary, but firewalls are not  
10 sufficient. You must protect your systems in every level  
11 you can, and that definitely includes patching.

12 You know, people from the outside are not the  
13 only possible attacker. People come into enterprises.

14 I mean, here we are sitting in this courtroom.  
15 This courtroom has a computer network. There are employees  
16 of companies, there are employees of governments. All of  
17 those people are potential threats. It's sad to say, but  
18 it's true.

19 You have to protect your data every possible way  
20 you can, and definitely, absolutely, essentially, you must  
21 patch your systems and stay up to date.

22 Q. And in your -- from your perspective, is that part  
23 of the responsibility of the person who's providing the  
24 support for the software, or the company that's providing  
25 the support for the software?

1       A.       I think that if you do not provide security fixes,  
2 security patches of software, you cannot possibly claim to  
3 be providing support.

4               MS. DUNN: All right. Let's move to Plaintiffs'  
5 Exhibit 5455. And this was something that we also saw on  
6 the screen the other day. It's been preadmitted, or it's  
7 been admitted.

8               And if we could just blow up the top of that  
9 email, that would be great. Thank you. Okay.

10 BY MS. DUNN:

11       Q.       All right. So this was an email from Krista  
12 Williams of the -- the jury saw her video this morning, and  
13 the subject is security, security patches and updates.  
14 Mr. Isaacson also asked Mr. Ravin about this email the  
15 other day.

16               It contains a question that says, "Are security  
17 patches part of the maintenance agreement?"

18               So this is a question being posed to Rimini  
19 Street. "Are security patches part of the maintenance  
20 agreement?"

21               And the answer is, "No. Rimini Street does not  
22 have the ability to modify the binary code that comprises  
23 the tools foundation, PeopleTools, WebLogic, thus we did  
24 not provide updates that are equivalent to Oracle's  
25 critical patch and security alerts."

1                   So my question for you, Mr. Screven, is does  
2 this surprise you? Does it surprise you that Rimini Street  
3 does not do this?

4                   MR. RECKERS: Objection, foundation.

5                   THE COURT: Overruled.

6                   THE WITNESS: Well, it does not surprise me that  
7 they are not able to provide security patches and security  
8 fixes.

9 BY MS. DUNN:

10       Q.       Why not?

11       A.       Well, they state it plainly right there for --  
12 there's one of the reasons. I mean, one of the reasons is  
13 they don't actually have the source code for important  
14 parts of the application, parts of the application which  
15 are especially critical for security.

16                   So programmers, as I mentioned before, they  
17 create source code, you know, and that is then compiled  
18 into the application.

19                   So, you know, if I don't have the source code  
20 then I cannot modify the application. I have to have --  
21 the way I actually create a security fix is I change the  
22 source code and then generate the application.

23                   If I don't have a source code to start with,  
24 then I can't fix the security vulnerability.

25                   I mean, yeah, so, yeah, I'm not surprised they



1 can't do this.

2 The other reason I think it would be very hard  
3 for them to produce a security fix is even if they had the  
4 source code, is it takes a lot of expertise and  
5 understanding of the underlying software in order to find  
6 these security vulnerabilities and fix them.

7 I mean, the security vulnerabilities are in  
8 there even though Oracle has applied massive amounts of  
9 resources over time to develop the software, to test the  
10 software, to look for security vulnerabilities. We have  
11 thousands of programmers working on these applications.

12 So without that sort of expertise and without  
13 the kind of investment that Oracle has made, it's very hard  
14 to find and fix security vulnerabilities.

15 Q. All right. And if you just go to the bottom of this  
16 email, it says,

17 "The strategy we recommend to our clients is to  
18 shore up all other aspects of security such as user  
19 accounts, network access, firewall rules, and system  
20 architecture."

21 Would your answer to this -- or reaction to this  
22 be the same as what you have already said about relying on  
23 the customer's firewall?

24 A. Yes, it's the same, grossly insufficient.

25 MS. DUNN: All right. Let's look at another

1 part of the transcript from the other day with Matt's  
2 assistance. Thank you.

3 BY MS. DUNN:

4 Q. So last week Mr. Isaacson asked Mr. Ravin, if a  
5 customer came to him,

6 "And they've been running the same version of  
7 their software for 10 years, they haven't updated forever,  
8 you're saying that you would allow them to keep that same  
9 software running for another 15 years?"

10 So, in other words -- this isn't in the  
11 transcript, but software today would run until the year  
12 2030.

13 Mr. Ravin's response was,

14 "Yes, we have many clients who run software that  
15 was released in 1996, so almost 20 years already."

16 Mr. Screven, what's your reaction to that?

17 A. I seriously doubt that, that they are running  
18 software today that you got a version of in 1996 and have  
19 not patched it and updated, and upgraded it.

20 And the reason is as follows: Your software  
21 application depends on other things. It runs on top of an  
22 operating system, it runs on top of a server that then uses  
23 storage and uses networking.

24 All of those other components, operating system,  
25 servers, storage, networking, they are all changing over

1 time too. I'm buying new servers, I have to apply updates  
2 to my operating systems, I have to update my storage.

3 And so in order to keep using, you know, that  
4 newer hardware, that newer operating system software, very  
5 often the applications have to be modified.

6 So very often I need to apply updates to my  
7 software in order to use the newer physical hardware and  
8 operating system that I'm using.

9 Q. All right. Switching gears just a little bit.

10 The jury has heard Rimini Street obtained  
11 something called an ISO certification or certifications.  
12 Are you familiar with those?

13 A. Yes.

14 Q. Is Oracle ISO certified?

15 A. We have several ISO certifications.

16 Q. ISO?

17 A. ISO.

18 Q. Okay. ISO.

19 Does ISO certification have anything to do with  
20 whether a company has the technical expertise to provide  
21 security to its customers for their software?

22 A. It does not.

23 MR. RECKERS: Objection, Your Honor, this is  
24 expert opinion from a lay witness.

25 THE COURT: I think some greater foundation is

1 necessary to show his qualification with regard to ISO.

2 MS. DUNN: No problem, Your Honor.

3 BY MS. DUNN:

4 Q. Mr. Screven, in the 30 years that you've worked with  
5 Oracle, the 20 years you've worked in security, and your  
6 time as Chief Corporate Architect of Oracle, what is your  
7 basis for your knowledge about ISO certifications, if you  
8 would tell us?

9 A. Well, many of our ISO certifications and the ones  
10 that are relevant here, are related to information  
11 security, and so it's my information security team that  
12 actually guides and steers the process to get ISO  
13 certification for our environments.

14 Q. And you're not putting yourself out as an ISO  
15 expert, are you?

16 A. I'm not. I can report our experiences and my  
17 understanding of what Oracle has done to become ISO  
18 certified.

19 MS. DUNN: Your Honor, may I proceed?

20 THE COURT: All right. You may proceed.

21 MS. DUNN: Thank you.

22 BY MS. DUNN:

23 Q. Okay. So based on your experience and knowledge,  
24 does ISO certification have anything to do with whether a  
25 company has the technical expertise to provide security

1 updates to its customers?

2 A. No. The ISO standards that are relevant to  
3 security, they are in something called the ISO 27000  
4 family, and those standards are all about the processes  
5 that you use to secure your internal information systems.

6 So do you have security practices related to  
7 managing those servers? Do you have people whose job it is  
8 to respond to threats to those servers?

9 It has nothing to do with writing software and  
10 delivering it to customers, and, in fact, the people at  
11 Oracle who design our ISO processes and that who actually  
12 help us get certification are completely different than the  
13 people who write the applications and fix security  
14 vulnerabilities in those applications.

15 Q. And do ISO certifications have anything to do with  
16 helping customers who might be running on old or very old  
17 software?

18 A. No. It's totally different.

19 Q. All right. So remembering back to last week, if  
20 anyone can do that still, we heard a term called  
21 installation media.

22 Mr. Screven, what is installation media?

23 A. Installation media is something like a CD or a DVD  
24 or, in the old days, tapes that contain bits that will be  
25 copied onto servers as part of an installation.

1 Q. And if contents of a CD are copied onto a computer,  
2 is that installation media?

3 A. Well, the installation is the physical disk. The  
4 copy on the computer after you install it is not  
5 installation media.

6 Q. Okay. So I'm going to use this white board because  
7 everyone else has used it but me, and I have to get it.  
8 Hold on one second.

9 All right. So I'm just going to ask you about a  
10 few things, and just tell me whether they're installation  
11 media. Okay?

12 All right. PeopleTools, installation media?

13 A. No.

14 Q. Software updates, is that installation media?

15 A. No.

16 Q. Okay. Patches, software patches, is that  
17 installation media?

18 A. No.

19 Q. Okay. How about fixes, are they?

20 A. No.

21 Q. All right. How about support documentation, is that  
22 installation media?

23 A. No.

24 Q. All right. And one more, kits, maintenance kits, is  
25 that what they're called? Is that installation media?

1 A. No.

2 Q. Okay. All right. What's the difference between an  
3 update and an upgrade?

4 A. Well, it's a --

5 Q. Oh, wait. Before you go on, Mr. Isaacson wants for  
6 you to explain why it's not, specifically for PeopleTools  
7 and for kits?

8 A. Well, installation media is a physical thing. I  
9 mean, it's a physical DVD, it's a physical CD-ROM.

10 Once I have copied whatever is on that CD or  
11 DVD, whether it's PeopleTools or a kit or anything else,  
12 once I have copied it onto a computer as part of  
13 installation, I mean, the copy I made on the computer is no  
14 longer the physical installation media, it's no longer the  
15 physical thing.

16 Q. I'll have to improve his handwriting.

17 All right. How about PeopleSoft software?

18 A. It's exactly the same thing. As soon as I copy it  
19 from the physical thing, then -- the installation media  
20 onto computer, it's no longer installation media.

21 I mean, the thing I copied, the copy that's on  
22 the computer is not the installation media, it's not the  
23 disk.

24 Q. What's the difference between an update and an  
25 upgrade?

1       A.       In some ways, it's a matter of degree. They are  
2 both -- they are both -- they are both changes to an  
3 existing version of software.

4               So an update tends to be smaller. It contains  
5 bug fixes, it contains maybe some very minor enhancements  
6 like you might add a field to a screen, nothing significant  
7 in terms of the functionality of the application.

8               An upgrade is significant new functionality, so  
9 you know, new capabilities in the software that weren't  
10 there before, maybe new screens. People tend to think of  
11 upgrades as being a new version of the software.

12       Q.       And can you just give me an example of an upgrade?

13       A.       Yes. So an upgrade would be something like going  
14 from, you know, Oracle Database version 11 to Oracle  
15 Database version 12.

16       Q.       Prior Oracle witnesses have testified that Oracle  
17 does not charge for upgrades. From your technical  
18 perspective, why, if at all, are upgrades valuable to  
19 customers?

20       A.       Well, because upgrades incorporate valuable new  
21 functionality, and that functionality may help you run your  
22 enterprise better.

23               I mean, it may help you manage your employees  
24 better. It might mean that you have a better idea of what  
25 your customers may want to buy.



1           If you're a government, it may mean that you do  
2 a more effective job at targeting social resources to  
3 people who need it.

4           But, more than that, the world we live in  
5 changes. You know, the technologies that people want to  
6 use change over time.

7           So, I mean, today, of course, Internet  
8 integration with applications is standard. You know,  
9 mobile integration is standard. That was definitely not  
10 true 10 years ago.

11           So upgrades are valuable to customers because it  
12 helps them run their enterprise better, but also helps them  
13 evolve with the evolving expectations and capabilities in  
14 the world.

15       Q.     But what if I say I don't want any new  
16 functionality?

17       A.     Well, you may not want it right now, but eventually  
18 you're going to want it because you're going to want to be  
19 able to provide better service to your customers, you're  
20 going to want to be able to provide, you know, a better  
21 experience to your employees.

22           You're going to want to be able to take  
23 advantage of some new technology, some new way of accessing  
24 the data which is stored within that -- that environment.

25       Q.     Does Oracle force customers to upgrade?

1       A.       No, we don't force people to upgrade.

2       Q.       To what extent do customers choose to upgrade in  
3 your experience?

4       A.       Well, in the long run they upgrade.

5               When I first joined Oracle, the current shipping  
6 version of the database was Oracle version 5. The current  
7 shipping version of Oracle today is Oracle version 12.

8               You could find very, very few cases of customers  
9 running a version of the database older than 10. So over  
10 those years, people have upgraded the database.

11      Q.       So what would you say to someone who says to you  
12 that getting upgrades or new releases of something for no  
13 additional cost is a bad thing?

14      A.       It's hard to understand how that could be a bad  
15 thing. So I'll give you an analogy.

16               So, I drive a car that was -- I bought in 2003.  
17 I really like the car. It's a stick shift sedan, if you  
18 can believe it. That's why I really like it.

19               Okay. Now, I would still find it valuable if,  
20 when I went to the dealer to have it serviced, he told me  
21 that as long as I keep having it serviced with him, I could  
22 get a new one whenever I wanted for no additional cost.

23               Now, I wouldn't actually get a new one because I  
24 like the one I have, but eventually I'm going to want a new  
25 car, and so I would like him to give me one for free.

1 Q. All right. So what would you think of a third-party  
2 service provider who encourages people to stay on their  
3 current release and tells them that the majority of  
4 organizations are comfortable doing this?

5 A. I just don't think that's true. I think -- I think  
6 the majority of organizations want to upgrade. The  
7 majority of organizations want to take advantage of new  
8 functionality, and they want to be able to take advantage  
9 of the new technologies that are going to matter to them  
10 and their employees and to their customers.

11 Q. All right. So I'm really glad that you brought up  
12 your car. What's the difference between enterprise  
13 software licensed by Oracle and cars?

14 A. Well, you know, one important difference is, you  
15 know, the roads, the gasoline, you know, traffic signals,  
16 all of those things today are basically the same as they  
17 were in 2003 when my car was made. You know, I'm not being  
18 forced by the environment of the roads and road system to  
19 upgrade my car.

20 That's not the case in enterprise software.  
21 Operating systems change, servers change, networks change,  
22 storage change.

23 And, by the way, the physical things, the  
24 servers, the storage, the networking, that stuff actually  
25 breaks. You cannot run it forever. You have to buy new

1 servers, you have to buy new storage, you have to buy new  
2 network.

3 And as those underlying technology components  
4 change and evolve, you must also evolve and change the  
5 software running on top of it including enterprise  
6 applications like PeopleSoft, JD Edwards, and Siebel.

7 Q. All right. So you said you had a car from 2003. Do  
8 you have any software from 2003?

9 A. No, I don't have any software from 2003.

10 MS. DUNN: Your Honor, I have no further  
11 questions at this time.

12 THE COURT: All right.

13 Cross-examination?

14 MR. RECKERS: Your Honor, I have no questions  
15 for this witness.

16 THE COURT: All right. Mr. Screven, that will  
17 complete your testimony in that case, and you may step  
18 down. Thank you.

19 THE WITNESS: Okay.

20 THE COURT: Ladies and gentlemen, I understand  
21 from counsel that there's a matter that the Court needs to  
22 address before we can proceed with some other evidence.

23 Is that correct? Are we at that position where  
24 we're coming up to that next issue?

25 MR. POLITO: Yes, Your Honor.

1           THE COURT:   Okay.   Actually, Counsel, can you  
2   give me a sense of how long it will take in your view for  
3   the Court to resolve this issue?

4           MR. POLITO:   Your Honor, I think it will take  
5   about five minutes.

6           MR. DYKAL:   Yes, that's about right.

7           THE COURT:   All right.   With the  
8   understanding -- I hear five minutes, that tells me 10 to  
9   15, but even if it's 10 to 15, ladies and gentlemen, that's  
10   still sufficient to keep you here and bring you back.

11           So I'm going to ask you if you would step out  
12   just -- the admonitions apply, and I'll make this as brief  
13   as I can.   It's just one of those housekeeping issues that  
14   has to be addressed.   So if you'll step down at this time  
15   I'll deal with it.

16           COURTROOM ADMINISTRATOR:   Please rise.

17           (Jurors exit courtroom at 1:22 p.m.)

18           THE COURT:   All right.   Mr. Polito, do you want  
19   to give me the overview of what the issue is before the  
20   Court and what you're seeking.

21           MR. POLITO:   Thank you, Your Honor.

22           We'd like to play the deposition testimony of  
23   Mr. Grigsby.

24           As you may know, Your Honor ruled on defendants'  
25   motion in limine number 8.   They had asked for certain

1 portions of his testimony to be excluded which has to do  
2 with taking documents from Oracle, bringing them to Rimini  
3 Street, and using them at Rimini Street, including copying  
4 them, creating derivative works, et cetera.

5 You denied their motion on grounds that his  
6 testimony showed -- his character showed his bias.

7 And, Your Honor, we've heard testimony today  
8 that said -- from Mr. Maddock saying when customers had  
9 technical questions, that they spoke to the technical teams  
10 including vice-presidents, and Mr. Grigsby was named.

11 So we think his credibility and his character  
12 for truthfulness are important since part of our case is  
13 that there were nontruthful statements that were being made  
14 to prospective customers. I think that's a summary.

15 THE COURT: Okay. Mr. Dykal, do you want to  
16 give me the defense take on the issue?

17 MR. DYKAL: Yes.

18 So when we moved in limine, we were very curious  
19 about what they were going to use this testimony for and  
20 the documents because the documents that were at issue have  
21 never been in the case.

22 We specifically served an interrogatory asking  
23 list your copyrights, list your registrations, tell us what  
24 your allegations are, and, in response, Oracle gave us  
25 dozens of copyright registrations, behaviors, acts.

1           This particular piece of testimony and these  
2 documents were not identified. They were never identified.

3           So we moved with respect to trade secrets  
4 because we thought this has no relevance to the case, maybe  
5 Oracle would insinuate we're stealing trade secrets.

6           In their response they said that, no, this  
7 relates to copyright infringement, and they identified a  
8 copyright registration that they had never identified  
9 before.

10           So the issue is very simple. This is something  
11 they should have disclosed long ago. We don't know if it's  
12 a valid copyright. We were not permitted to explore who  
13 actually owns it is, what the behavior was.

14           It's very prejudicial at this stage in the game  
15 to try to lodge some brand-new facts that we were not  
16 entitled to explore in discovery.

17           I mean, I can hand you, if you would like,  
18 Interrogatory No. 17. It's very specific.

19           "List your copyright registrations that you  
20 allege we infringed and what the allegations are."

21           That was served so that we could explore it,  
22 whether it was a valid copyright, whether Oracle actually  
23 owns it. They never gave it to us.

24           They didn't add it to their exhibit list until  
25 just a few days before trial, and the hiding of the ball --

1 I don't know if that's their intent, but at this stage it's  
2 very prejudicial to us. We weren't allowed to explore it.

3 So that's defendants' position.

4 THE COURT: Take me into the next step into the  
5 Grigsby testimony.

6 MR. POLITO: Sure. Your Honor, we're not  
7 planning to ask for damages for these copyrights.

8 It's true our scope of injunctive relief extends  
9 to -- as the Ninth Circuit allows, to copyrights beyond  
10 those identified in our complaint.

11 But these copyrights, we didn't have them at the  
12 time that we responded to the discovery, Your Honor. They  
13 were applications that had not yet issued. We didn't  
14 produce them in discovery before the close of the case.

15 But this is not us saying we're now having 102  
16 registrations on our complaint instead of 100.

17 So it is relevant to copyright, whether or not  
18 those copyrights are in the case, and under *Amazon* in the  
19 Ninth Circuit, that's -- can be a part of our injunctive  
20 relief.

21 But, Your Honor, this is mostly about is this  
22 man truthful. In his testimony, he was the 30(b)(6)  
23 representative for JD Edwards environments, JD Edwards  
24 fixes, JD Edwards support. I'm happy to read the topics to  
25 you.



1           We showed him in his deposition sets of  
2 documents showing there were additional JD Edwards  
3 environments that Rimini did not agree existed.

4           We have his reactions, and part of the question  
5 that his testimony presents is do we believe those  
6 documents are not part of the contested portion of the  
7 deposition, or do we believe his testimony that, no, those  
8 weren't really environments.

9           This goes to show his character for  
10 truthfulness. He was put up as the corporate  
11 representative for JD Edwards, your Honor -- I'm sorry, he  
12 was put up as the corporate representative for how they  
13 provide JD Edwards support, and he is taking Oracle  
14 documentation and putting Rimini's name on it, JD Edwards  
15 documentation. It's very, very relevant, Your Honor.

16           THE COURT: How long does it take to run the  
17 Grigsby video deposition?

18           MR. POLITO: So the video itself is just over 26  
19 minutes. I think the contested portion is about five  
20 minutes.

21           MR. DYKAL: If I could just respond to that very  
22 briefly, Your Honor.

23           That's again the problem. We don't know whether  
24 or not he was being truthful. Mr. Grigsby testified he had  
25 the rights to use those copyrights.

1           And contrary to what Oracle counsel just said,  
2           in the declaration to their motion in limine, they gave us  
3           that copyright. They had it. They could have identified  
4           it. We were not permitted to explore it.

5           And with respect to his character for  
6           truthfulness, whatever marginal relevance it might have is  
7           far outweighed by the prejudice that could be created.

8           I guess that's where I would leave it.

9           MR. POLITO: Your Honor, they're not disputing  
10          they took our stuff --

11          THE COURT: Well, let me stop you.

12          What I'm going to do, this requires greater  
13          study by the Court than I'm going to hold this jury up for.

14          So what I'm going to do is call the jury back in  
15          and excuse them until tomorrow morning, and then when we --  
16          after they've been excused, I'll -- I want to see the  
17          video, the Grigsby video, and I'll hear briefly from  
18          counsel probably after that.

19          But I just need a better sense for this than I  
20          have right now.

21          I do recall that -- the motion in limine, but I  
22          haven't refreshed on it, and, of course, there were many in  
23          this case. So I need to do that.

24          I may or may not be able to give you a ruling  
25          this afternoon.

1                   So, Madam Clerk, would you bring the jury back  
2 in, please.

3                   MR. ISAACSON: Your Honor, if I may.

4                   THE COURT: Do you have another witness?

5                   MR. ISAACSON: If we want to use some more of  
6 the day, we have an 11-minute video and a 12-minute video  
7 that we could use during this period, or we could use one  
8 of them.

9                   THE COURT: All right. Well, that was my next  
10 question. If plaintiffs have another witness or another  
11 substitute, another video that would come in that's not the  
12 subject matter of this issue, let's do that.

13                  MR. ISAACSON: Okay.

14                  MR. DYKAL: Thank you, Your Honor.

15                  MR. ISAACSON: We can do one of them or two of  
16 them, depending on how you want to wrap up the day.

17                  THE COURT: Well, let's try and do as much as we  
18 can.

19                  MR. ISAACSON: Okay.

20                  MR. POLITO: Thank you, Your Honor.

21                  THE COURT: Let's bring in the jury, please.

22                  COURTROOM ADMINISTRATOR: Yes, Your Honor.

23                  (Jurors enter courtroom at 1:30 p.m.)

24                  THE COURT: All right. Have a seat, please.

25                  The record will show that the jury is present.

1 We are in open court. The parties and counsel are present.

2 What we'll do at this point is proceed with the  
3 next evidence then that we have just discussed.

4 Mr. Polito?

5 MR. POLITO: Thank you, Your Honor.

6 We'll now play another deposition video of  
7 Mr. George Lester. At the time the video was filmed, he  
8 was the vice-president of IT for Rimini Street. It's about  
9 12 and a half minutes.

10 COURTROOM ADMINISTRATOR: Are there exhibits  
11 related to this?

12 MR. POLITO: I apologize. So I have PTX 228,  
13 which has been preadmitted.

14 I have PTX 456 which has been preadmitted.

15 And for PTX 457, there's no objection, and we  
16 move it into evidence at this time.

17 MR. RECKERS: No objection.

18 THE COURT: It's admitted.

19 MR. POLITO: Thank you.

20 (Plaintiffs' Exhibit 457 received into  
21 evidence.)

22 (Videotape deposition of George Lester played  
23 as follows:)

24 PAGE 4:08 TO 4:11 (RUNNING 00:00:03.639)

25 "BY MR. HIXSON:

1 Q. Will you please state your name for the  
2 record.

3 A. George Lester.

4 PAGE 5:16 TO 5:18 (RUNNING 00:00:15.061)

5 Q. When did you begin working at Rimini  
6 Street?

7 A. It was either late October or early  
8 November of 2006.

9 PAGE 5:19 TO 6:06 (RUNNING 00:00:57.850)

10 Q. Where did you work before Rimini Street?

11 A. I worked at TomorrowNow.

12 Q. For how long?

13 A. I'm not exactly sure. I think three  
14 years.

15 Q. So approximately 2003 to 2006; is that  
16 right?

17 A. I'm not sure. I'm not sure.

18 Q. At least two years?

19 A. At least two years.

20 Q. In general terms, what was your  
21 responsibilities at TomorrowNow?

22 A. At TomorrowNow I was in charge of the  
23 environments, and I was in charge of the  
24 technical PSEs.

25 PAGE 6:22 TO 8:14 (RUNNING 00:02:59.878)

1 Q. Are there any people who are currently  
2 working at Rimini Street who you worked with  
3 when you were at TomorrowNow?

4 A. Yes.

5 Q. Who are they?

6 A. My wife, Beth Lester. Krista Williams.  
7 Doug Baron. I'm sure there's others. I'm  
8 just not recalling who they all are. I know  
9 Seth was there too, but I didn't really know  
10 Seth at TomorrowNow.

11 Q. Did anyone recruit you to come work at  
12 Rimini Street?

13 A. No.

14 Q. How did you learn about Rimini Street?

15 A. Seth came and visited my wife, and I  
16 inquired to Seth about opportunities at  
17 Rimini Street.

18 Q. And did he describe for you what your role  
19 could be at Rimini Street?

20 A. He did.

21 Q. And what did he describe it to you as?

22 A. Vice president of IT.

23 Q. And in general terms, what did he describe  
24 that as being? Like what would your  
25 responsibilities be?

1           A. The infrastructure of the company. The  
2           servers, the storage, the desktops and  
3           laptops that the company uses.

4           Q. What is your job title now?

5           A. Vice president of IT.

6           Q. How long have you had that job title?

7           A. July of 2010.

8           Q. What was your title before then?

9           A. It was group vice president of PeopleSoft,  
10          development documentation and IT.

11          Q. For how long were you in that role?

12          A. 11 months.

13          Q. And prior to that role, what was your job  
14          title?

15          A. Vice president of IT.

16          Q. And did you have that title from when you  
17          started at Rimini Street until approximately  
18          August 2009?

19          A. That is -- that is correct. Actually, it  
20          was -- yes, August of 2009. Yes.

21          PAGE 14:20 TO 15:01 (RUNNING 00:00:20.088)

22          Q. Have you ever, during your time at Rimini  
23          Street, had responsibility for seeing whether  
24          software environments are being built or used  
25          properly?

1 A. Yes.

2 Q. When did you have that responsibility?

3 A. The first 8 to 12 weeks when I was  
4 managing the environments.

5 PAGE 66:09 TO 66:22 (RUNNING 00:00:36.254)

6 Q. At some point did you become aware of the  
7 existence of file share while you were at  
8 Rimini?

9 A. Yes.

10 Q. Can you recall the earliest that you were  
11 aware of it?

12 A. I would assume it would be the first time  
13 that we installed an environment from media,  
14 but I can't say for certain when that date  
15 was.

16 Q. Can you say that by release 2007 you would  
17 have been aware of the file share?

18 A. I believe.

19 Q. So do you think that by the end of 2006  
20 you were aware of that file share?

21 A. I believe so, or possibly.

22 PAGE 67:09 TO 67:12 (RUNNING 00:00:14.893)

23 Q. If I use the term "software library"  
24 during this deposition, will you understand  
25 that I'm referring to the file share you just



1 described?

2 A. Okay.

3 PAGE 67:19 TO 67:23 (RUNNING 00:00:17.314)

4 Q. Was the software library organized by  
5 application and release?

6 A. I don't recall how it was organized.

7 Q. Okay. Was it organized by customer?

8 A. No.

9 PAGE 170:23 TO 171:05 (RUNNING 00:00:20.312)

10 Q. All right. I'd like to ask about a  
11 different subject now, which is about  
12 automated downloading. At some point after  
13 you arrived at Rimini Street, did Rimini use  
14 automated tools to download a software from  
15 Oracle support websites?

16 A. Yes.

17 Q. Who developed those tools?

18 A. Doug Baron.

19 PAGE 171:17 TO 172:05 (RUNNING 00:00:34.790)

20 Q. When Mr. Baron was developing these  
21 automated tools to download software, did he  
22 give you status updates and apprise you of  
23 his progress on that effort?

24 A. He would send me updates.

25 Q. And do you recall that by the end of 2006,

1 he had developed certain scripts for  
2 automated downloading?

3 A. By the end of 2006. It was either the end  
4 of 2006 or beginning of 2007, around that  
5 time.

6 Q. And did Rimini Street then use those tools  
7 to conduct automated downloading from Oracle  
8 support sites?

9 A. I believe so.

10 PAGE 180:17 TO 180:21 (RUNNING 00:00:09.952)

11 Q. Do you understand that automated  
12 downloading is faster than manual  
13 downloading?

14 A. I do.

15 Q. That's why you automate; right?

16 A. Yes. Otherwise, it would take a decade.

17 PAGE 183:03 TO 183:22 (RUNNING 00:01:46.860)

18 Q. In any event, after this change of the  
19 terms of use came to your attention, Rimini  
20 Street continued using its automated download  
21 tools; is that correct?

22 A. This was in -- yes, we did continue.

23 Q. Who made the decision to continue?

24 A. It wasn't myself, but I don't recall a  
25 specific conversation with someone who did

1 confirm it.

2 Q. Did you talk with Seth Ravin about this  
3 issue?

4 (The witness reviewed the document.)

5 THE WITNESS: I believe I did.

6 BY MR. HIXSON:

7 Q. And can you recall the content of that  
8 conversation?

9 A. I don't.

10 Q. Do you recall if Mr. Ravin expressed  
11 agreement with your view that Rimini could  
12 continue using automated downloads?

13 A. I don't recall that, but I know that if he  
14 said, "Stop doing it," we would have stopped.

15 PAGE 196:02 TO 196:14 (RUNNING 00:00:39.647)

16 Q. Turning back under "Web Site Download  
17 Procedures," if you look at that sentence  
18 that we referred to, clients using automation  
19 tools, the next sentence says, "It is  
20 therefore proposed that Rimini Street  
21 continue to utilize automation in its  
22 downloading and archiving processes from  
23 Oracle's web sites." Does this help you to  
24 recall that Mr. Ravin was the one who  
25 proposed to continue using automation?

1 A. This would be confirmation that he did  
2 recommend that we continue, yes.

3 Q. Did Rimini Street in fact continue using  
4 automated downloading tools?

5 A. I believe they did.

6 PAGE 206:10 TO 206:17 (RUNNING 00:00:27.974)

7 Q. Do you recall that Oracle blocked one or  
8 more of Rimini Street's IP addresses when  
9 Rimini was doing downloads for XO  
10 communications?

11 A. I believe that is correct.

12 Q. Given your position as VP of IT, would a  
13 blocking of a Rimini Street IP address  
14 normally be reported to you?

15 A. It was reported to me.

16 PAGE 209:04 TO 209:04 (RUNNING 00:00:02.503)

17 MR. HIXSON: Here is Exhibit 819.

18 PAGE 209:05 TO 209:07 (RUNNING 00:00:04.926)

19 Q. Is this an email between yourself, Brian  
20 Slepko, and Chiu?

21 (The witness reviewed Exhibit 819.)

22 PAGE 209:08 TO 209:18 (RUNNING 00:00:44.314)

23 THE WITNESS: Okay. What is your question?

24 BY MR. HIXSON:

25 Q. Is this an email exchange between

1           yourself, Dennis Chiu, and Brian Slepko?

2           A. It is.

3           Q. Let's go to the end and work backwards.

4           There's an email from you to Slepko and Chiu,  
5           and you state that "Oracle has not yet

6           removed blocks on any of our IP's." Do you  
7           see that on the third page of this exhibit?

8           A. I do see that.

9           PAGE 209:19 TO 210:08 (RUNNING 00:00:44.605)

10          Q. The -- there's a list of two blocked IP,  
11          71.5.6.20 and 71.5.6.24. Were those Rimini  
12          Street IP addresses?

13          A. Yes.

14          Q. And then there's a list of IPs that you  
15          still have available for use, and it lists  
16          71.5.6.23 and 71.5.6.28. Were those also  
17          Rimini's IPs?

18          A. Correct.

19          Q. And it says you're working with XO to  
20          obtain more IPs. XO was a customer of Rimini  
21          Street; is that correct?

22          A. Correct.

23          Q. XO is also your Internet service provider;  
24          right?

25          A. Correct.

1 PAGE 210:24 TO 211:10 (RUNNING 00:00:40.887)

2 Q. Why were you getting more IP addresses  
3 from XO?

4 A. To continue the -- to allow on-boarding to  
5 continue their extract process while I  
6 believe Dennis Chiu was working to resolve  
7 why they were blocked.

8 Q. So the purpose was to obtain more IPs so  
9 Rimini could use those in place of the ones  
10 that had been blocked; is that right?

11 A. The ones that were blocked, while they  
12 were resolved, we were.

13 Q. And was the plan to use the additional IP  
14 addresses to perform automated downloading?

15 PAGE 211:13 TO 211:13 (RUNNING 00:00:02.063)

16 THE WITNESS: I believe so, yes.

17 PAGE 215:11 TO 215:14 (RUNNING 00:00:09.228)

18 Q. And is Exhibit 820 an email exchange  
19 between yourself, Brian Slepko, and then some  
20 others at Rimini Street?

21 A. It is.

22 PAGE 216:01 TO 216:04 (RUNNING 00:00:13.239)

23 Q. Did you obtain 27 new IP addresses from  
24 XO?

25 A. It appears that I did in the email. I

1 don't recall specifically, but I believe that  
2 to be accurate.")

3 (Deposition ends.)

4 THE COURT: Thank you. Mr. Polito. Is there  
5 another videotape?

6 MR. POLITO: There is, Your Honor.

7 We would like to close today with another  
8 customer video. This one is of William Leake, who is the  
9 representative for Leads Customers Growth, that first  
10 customer of Rimini Street that you've heard about, and this  
11 video is about 11 and a half minutes.

12 THE COURT: All right.

13 MR. POLITO: And for the exhibits, PTX 218 has  
14 been admitted.

15 And then we would move for admission of PTX 541.

16 MR. RECKERS: No objection.

17 MR. POLITO: Thank you.

18 THE COURT: It's admitted.

19 (Plaintiffs' Exhibit 541 received into  
20 evidence.)

21 (Videotape deposition of William Leake played  
22 as follows:

23 PAGE 9:04 TO 9:07 (RUNNING 00:00:09.359)

24 "Q. Very good. What -- what is Leads  
25 Customer Growth, LLC?

1 A. It is a Texas LLC primarily providing  
2 marketing services.

3 PAGE 11:15 TO 11:20 (RUNNING 00:00:17.423)

4 Q. How do you know Seth Ravin?

5 A. How do I know Seth Ravin? From elementary  
6 school.

7 Q. And how long have you had a professional  
8 relationship with him?

9 A. Since the mid part of this century.

10 PAGE 13:04 TO 13:25 (RUNNING 00:01:09.800)

11 Q. And you, through LC Growth, began to  
12 perform marketing services for his new  
13 company; is that right?

14 A. Yes. LCG and Seth started talking about,  
15 you know, what -- what kind of marketing  
16 services he might need to get more visibility  
17 in the space. And that probably -- oh, I  
18 don't remember when he started Rimini Street.  
19 But it was fairly shortly afterwards.

20 Q. And what kind of services has LC Growth  
21 performed for Rimini Street over the course  
22 of time?

23 A. General online marketing. Primarily SEO  
24 and Adwords Management.

25 Q. And do you do any work for Ravin or Rimini



1           aside from the work that LC Growth does? You  
2           personally?

3           A. He has in the past written me some small  
4           checks to just rent my brain for a few hours  
5           here and there. I'm not very good at billing  
6           him for those. So I need to -- need to be  
7           better about that.

8           PAGE 14:12 TO 14:17 (RUNNING 00:00:11.863)

9           Q. Are you still doing work for Rimini  
10          Street?

11          A. They are a current client of LCG.

12          Q. And is that online marketing work that  
13          you're doing right now?

14          A. Uh-huh.

15          PAGE 15:25 TO 16:09 (RUNNING 00:00:25.408)

16          Did Rimini Street also perform any work  
17          for LC Growth?

18          A. Yes.

19          Q. What did they do for you?

20          A. They helped us -- or were going to help us  
21          through a Siebel implementation.

22          Q. You say they were going to?

23          A. We -- we ended up deciding it was more  
24          work than -- than we'd anticipated and never  
25          -- never fully got it implemented.

1 PAGE 16:10 TO 17:24 (RUNNING 00:01:43.987)

2 Q. So tell me about what happened there. You  
3 thought you wanted to implement Siebel, but  
4 then what happened?

5 A. Well, we -- as we were growing at the  
6 time, we -- we outgrew our current CRM system  
7 and we were looking for another one and the  
8 -- and the obvious answer was Salesforce.com  
9 and I was -- I'm generally not convinced that  
10 the obvious answer is always the best answer.  
11 And we started looking at Siebel and it  
12 seemed like, you know, the five user -- or  
13 whatever -- I'm not sure how many licenses we  
14 got. Five -- five is the number that sticks  
15 in mind. It may have been ten, it may have  
16 been some -- something around it. It seemed  
17 like you buy it once and the data is on  
18 servers that you control rather than in the  
19 cloud, which was a lot more amorphous several  
20 years ago than it is now. And it seemed like  
21 -- seemed like a good deal. So we went down  
22 the -- went down the path with -- with the  
23 guys at Siebel.

24 Q. And you ultimately purchased a license to  
25 Siebel software; is that correct?

1           A. I did. I actually had -- had a couple of  
2           friends who were working at Siebel at the  
3           time. I had -- one of the -- one's a VP over  
4           there, another was a senior director. And  
5           they were -- one of my concern areas had  
6           been, you know, is -- is the code basically  
7           advanced or is it the end of life, what's  
8           going on with that. And they assured me  
9           that, you know, it was continuing to advance;  
10          it was probably a safe bet to go with. I  
11          think I figured out that our company's size  
12          was sort of out of their sweet spot. Once --  
13          I should have known better. Once something  
14          gets purchased by a very large company,  
15          typically they -- they rapidly move upscale,  
16          move more to the enterprise sector.

17          PAGE 17:25 TO 18:16 (RUNNING 00:00:59.353)

18          Q. So between the time you purchased Siebel  
19          license and a -- the time when you decided  
20          not to pursue Siebel implementation, what  
21          happened?

22          A. Several things. And I'm -- I'm not sure  
23          as to the exact order of it. One, I was -- I  
24          had a VP of sales who wasn't -- wasn't  
25          thrilled that his CEO was making decisions

1           about what software to use, and we had some  
2           turmoil and transition in our IT department.  
3           And I think when we unwrapped the Siebel  
4           present we figured out that it wasn't -- it  
5           didn't spring out of the box ready to go,  
6           that it  
7           required actually a fair amount of -- a lot  
8           more tweaking than we had anticipated.

9           Q. Now --

10          A. And -- and that -- that meant cost and  
11          complexity, and we weren't a big business.

12          PAGE 19:06 TO 19:25 (RUNNING 00:01:00.187)

13          Q. (BY MR. RIGGENBERG) What did you engage  
14          Rimini Street to do?

15          A. To help in the configuration,  
16          implementation and -- and, most importantly,  
17          just ongoing support, to know that we would  
18          have, you know, somebody who could keep the  
19          system, once it was up and running, on  
20          servers that would be up and live, and that  
21          our data would be there as opposed to, you  
22          know, Salesforce.com, which back then I think  
23          was still having a fair amount of outages  
24          that were being publicized.

25          Q. And after you decided not to pursue Siebel

1 implementation, what -- what did Rimini  
2 Street do for you after that?

3 A. I'm not sure exactly what they did for me  
4 at that point. I -- you know, I could see if  
5 my IT department kept calling them, but there  
6 wouldn't be much reason to at that point.

7 Q. They --

8 A. We weren't really requiring support.

9 PAGE 48:21 TO 48:23 (RUNNING 00:00:07.360)

10 Q. But Exhibit 1196 is the support agreement  
11 between Siebel and LC Growth; is that right?

12 A. It appears to be.

13 PAGE 49:23 TO 50:11 (RUNNING 00:00:23.876)

14 Q. Right. If you -- if you look at the  
15 paragraph numbering in the document itself,  
16 you'll see that it goes from Paragraph 5,  
17 "Client Obligations," to Paragraph 7,  
18 "Termination of Agreement."

19 A. Okay.

20 Q. And it was faxed. So the fax machine  
21 could have eaten the page or --

22 A. It looks like Section 11 is also missing.

23 Q. Right. So to the best of your knowledge,  
24 the agreement was complete and you -- when  
25 you faxed it to him, you meant to send him

1 all the pages; is that right?

2 A. That's correct.

3 PAGE 71:10 TO 72:02 (RUNNING 00:01:03.674)

4 Q. (BY MR. RIGGENBERG) Is Exhibit 1200 an  
5 email between yourself and Seth Ravin from  
6 February of 2006?

7 A. Okay.

8 Q. Do you have a reason to think this was not  
9 an exchange you had Mr. -- with Mr. Ravin in  
10 February of 2006?

11 A. Not at this point. What is -- what is  
12 this one about?

13 Q. Did -- there is an attachment to this  
14 email record. Bates number is RSI03046750  
15 through 52. The attachment says: Siebel  
16 eBusiness End User License and Services  
17 Agreement. Did you get a copy of this  
18 agreement from the Siebel support rep and  
19 forward it on to Mr. Ravin with a proposed  
20 change?

21 A. Looks like I did.

22 PAGE 72:25 TO 74:04 (RUNNING 00:01:23.127)

23 Q. So let me just direct your attention to  
24 the paragraph that says: YOU MAY NOT. And  
25 there's a (c) subpoint.

1           It says: YOU MAY NOT (c) use the Programs or  
2           Ancillary Programs for any purpose other than  
3           to support your own internal business  
4           operations.

5           Do you see that?

6           A. The number (c)?

7           Q. Yeah.

8           A. Uh-huh.

9           Q. And do you understand that that means that  
10          LC Growth is not licensed to use the Siebel  
11          support -- Siebel software for any purpose  
12          other than to support LC Growth's internal  
13          business operations?

14          A. That sounds correct to me.

15          Q. And that would be a common term in the  
16          software industry, right?

17          A. Yeah.

18          Q. Did you ever authorize Rimini Street to  
19          use the software for any purpose other than  
20          to support LC Growth's business?

21          A. I authorized them to support my business  
22          and try to get the software up and running  
23          and implemented.

24          Q. Right. And other than that, did you ever  
25          authorize them to use software from Siebel

1 for any other purpose?

2 A. I don't know.

3 PAGE 79:15 TO 79:15 (RUNNING 00:00:02.573)

4 Q. I'd offer you 1202.

5 PAGE 79:19 TO 80:07 (RUNNING 00:00:41.208)

6 Is this an email exchange you had with  
7 Dennis Chiu at Rimini Street in March of  
8 2006?

9 A. Looks like it.

10 Q. And you obtained, from Siebel, login  
11 credentials for what was described as the  
12 Siebel Technical Support Website; is that  
13 correct?

14 A. It appears to. It looks like I passed  
15 them off to my consultant.

16 Q. Right. And you -- and you -- and then  
17 you sent those credentials on to Mr. Chiu at  
18 Rimini Street, right?

19 A. Right.

20 Q. Is that correct?

21 A. Uh-huh.

22 PAGE 81:19 TO 82:08 (RUNNING 00:00:44.380)

23 Exhibit 235 is another email chain. You're  
24 -- you're not on it, but it -- there is an  
25 email from Mr. Ravin, Dan Slarve, Dennis



1 Chiu, May 2nd, and he says: I've had a few  
2 conversations with Bill Leake, LC Growth's  
3 CEO. We discussed a review of the Siebel  
4 system and they decided not to proceed with  
5 an implementation at this time. They decided  
6 to continue looking at other SFA solutions in  
7 the coming months.

8 Is that an accurate statement; that is, in  
9 late April, early May 2006 you discussed the  
10 issues with Mr. Ravin and decided not to  
11 implement the Siebel system?

12 A. Sounds correct.

13 PAGE 83:19 TO 83:21 (RUNNING 00:00:05.065)

14 Do you have any reason to think that's  
15 incorrect and you still harbored some thought  
16 of proceeding with Siebel at that time?

17 PAGE 83:23 TO 84:04 (RUNNING 00:00:18.115)

18 A. Now, it -- reading this and thinking  
19 through my thought process, I don't know that  
20 we'd completely deep-sixed it. I think it  
21 was a "not at this time." You know, I don't  
22 know if this is a "other things on our  
23 plate," or "too many balls in the air," or  
24 "we just don't like Siebel anymore."

25 PAGE 87:23 TO 88:03 (RUNNING 00:00:19.854)

1 Q. The -- but my question is, did you  
2 authorize Rimini Street to use your name and  
3 password to -- to download material from the  
4 Siebel technical support website after you  
5 weren't using Siebel software and after you  
6 weren't using Rimini for active support?

7 PAGE 88:06 TO 88:06 (RUNNING 00:00:01.158)

8 A. I don't recall.

9 PAGE 95:17 TO 95:24 (RUNNING 00:00:13.819)

10 Q. And so Mr. Ravin asked you to be a  
11 reference for Rimini Street for Albridge  
12 Solutions; is that right?

13 A. Uh-huh.

14 Q. And did you speak to someone from  
15 Albridge?

16 A. Probably. I don't remember, but probably.

17 PAGE 96:19 TO 96:23 (RUNNING 00:00:07.893)

18 Q. And had they not asked, you wouldn't have?

19 A. Had they not asked I would probably have  
20 left it at, I've known Seth for years and  
21 I've done business with him for years.")

22 (Deposition ends.)

23 MR. ISAACSON: That is all we have for today,  
24 Your Honor.

25 THE COURT: All right. Thank you.

1           Ladies and gentlemen, it looks like we're done  
2 with today's evidence and testimony to be presented before  
3 you.

4           And so I'm going to go through the long  
5 admonition to remind you not to discuss the case with  
6 anyone or permit anyone to discuss it in your presence.  
7 That involves not discussing the case in any way,  
8 electronically, over the Internet, through emails or text  
9 messaging.

10           I caution you not to read, watch or listen to  
11 any report or commentary that may concern this case in any  
12 way regardless of whether that might appear on the  
13 Internet, television, radio or in the newspaper.

14           I caution you not to do any research or conduct  
15 any independent investigation on your own. That includes  
16 such things as consulting dictionaries, searching the  
17 Internet, performing Google searches or making any other  
18 investigation about the case on your own.

19           I remind you how important it is that all of you  
20 decide this case at the end of the case based on the  
21 evidence that was presented here in the courtroom in front  
22 of every one of you.

23           Please leave your notes in the jury room as I've  
24 instructed before. We'll start promptly tomorrow morning  
25 at 8:00 a.m. At this time I'll wish you a pleasant evening

1 and excuse you and you may go ahead and step down.

2 COURTROOM ADMINISTRATOR: Please rise.

3 (Jurors exit courtroom at 1:58 p.m.)

4 THE COURT: The record will show the jury has  
5 been excused. We're in open court. The parties and  
6 counsel are present.

7 Ms. Dunn?

8 MS. DUNN: Thank you, Your Honor. We're hoping  
9 to raise one item before tomorrow, which is we'll start to  
10 put on our damages experts, so Mr. Yourdon and Ms. Dean are  
11 going to testify.

12 And then we anticipate an issue which has also  
13 been reflected in an objection to a demonstrative that we  
14 sent to defense counsel, which is the issue of whether  
15 certain other third-party support providers are  
16 noninfringing or infringing alternatives.

17 And both Ms. Dean and Mr. Yourdon, in order to  
18 testify, have to be able to say that certain of the  
19 providers were infringing alternatives which is why they  
20 didn't consider them to be an alternative.

21 Earlier in the trial defense counsel, Mr. Webb,  
22 said that -- at least with regard to TomorrowNow, that they  
23 did not plan to contest that TomorrowNow was an infringing  
24 alternative.

25 But before we put Mr. Yourdon on the stand, and

1 then Ms. Dean, to talk about this, we wanted to raise this  
2 issue with the Court to figure out, you know, what was  
3 going to be permissible and to discuss in advance what is  
4 going to be objected to or not objected to.

5 So our position is that it would be, frankly,  
6 impossible for them to explain this piece of the damages  
7 case without being able to say that TomorrowNow and  
8 CedarCrestone are infringing alternatives.

9 THE COURT: All right.

10 Mr. Webb?

11 MR. WEBB: Your Honor, I believe the record is  
12 very clear. I said that we didn't intend to argue that  
13 TomorrowNow was a noninfringing alternative. That's a far  
14 cry from having an expert saying the reason they excluded  
15 them is because they're infringers.

16 This is exactly where we were going back when  
17 TomorrowNow came into the case. It has gradually gotten  
18 bigger and bigger and bigger. Now it's in all the videos  
19 that we've seen. It's going to be coming from every expert  
20 that we hear from.

21 And now they're finally going to get that final  
22 step which is "and in fact they are infringing," not just  
23 with TomorrowNow, but also with CedarCrestone, and there's  
24 no proof of either being infringing alternatives, Your  
25 Honor. There's no proof.

1           In the SAP case, SAP voluntarily decided to shut  
2 down TomorrowNow, which is a separate issue we can talk  
3 about. They admitted infringement. There was no finding  
4 of infringement by a judge.

5           And with CedarCrestone, it is black box.  
6 Something happened between Oracle and CedarCrestone, and we  
7 have no idea. We've sought discovery and were denied. So  
8 as far as CedarCrestone is concerned, we have no idea. I  
9 mean, it truly is a black box.

10           And as TomorrowNow is concerned, we don't know  
11 anything about that process, certainly nothing in this  
12 trial.

13           And for them to say the reason they excluded  
14 them is because they are infringing, I think it would be  
15 unfairly prejudicial to the point of really denying us the  
16 ability to really have a chance in this case.

17           THE COURT: All right.

18           MS. DUNN: Your Honor, we would just say a  
19 couple things.

20           One is that we have to find a way to square this  
21 circle because these are experts who did an analysis that  
22 is not just relevant to, but integral to, the damages  
23 question in this case.

24           And the reason they did not consider  
25 CedarCrestone and TomorrowNow to be reliable alternatives

1 is because they were instructed or knew sufficiently to  
2 consider them infringing alternatives.

3 I would say in each case there is evidence that  
4 these are infringing alternatives, and would I not dismiss  
5 the stipulation of facts as to TomorrowNow as being no  
6 evidence or the criminal plea, neither of which we're  
7 trying to get into evidence in this case in respect of Your  
8 Honor's order.

9 But it is -- it is impossible for the damages  
10 experts to explain their analysis when a pivotal question  
11 is are there alternatives in the third-party support  
12 market.

13 I will say for Mr. Yourdon in his report, there  
14 are two things. He does discuss TomorrowNow and what he  
15 understands.

16 We would be happy to limit his testimony to "I  
17 excluded them because I did not consider them a  
18 noninfringing alternative" or "I considered them an  
19 infringing alternative" and not go beyond that.

20 And with CedarCrestone, Mr. Yourdon was  
21 instructed by counsel to consider them an infringing  
22 alternative. He does not need to testify about why unless,  
23 of course, defense counsel opens the door to that. I mean,  
24 we're suggesting something quite limited.

25 This is -- you know, it's hard to believe we can

1 proceed without figuring this out.

2 THE COURT: All right.

3 MR. WEBB: So they want to be able to say that  
4 it's an infringing alternative, but we're not allowed to  
5 cross because it might open the door? The door has been  
6 kicked wide open already, Your Honor.

7 They have -- as soon as they tell the jury,  
8 well, we can't consider them because they're infringing,  
9 the basis for it, whether it was just being told by  
10 counsel, or whether it was a result of a court hearing,  
11 those nuances will be lost on the jury. They will hear  
12 infringing, and that's all.

13 Now, we've gone from TomorrowNow being a company  
14 on the market to a company that stopped locally hosting, to  
15 a company where there was one of the executives admitted  
16 wrongdoing and was demoted, and now with Ms. Catz on the  
17 stand saying they were shut down by SAP, and now the next  
18 step they were shut down because they were infringing.

19 This started and has gotten incrementally bigger  
20 and more of a problem every day, and now they want to take  
21 this final point that these are -- and CedarCrestone again  
22 is a black box. Who the heck knows what they did?

23 So allowing us to cross on that and basically to  
24 have a trial within a trial on each of those systems, and  
25 there simply isn't enough information or evidence about



1 either.

2 MS. DUNN: Just to clarify a couple of things.

3 One is we are not at all saying that defense  
4 counsel cannot cross. They're certainly welcome to cross  
5 on this.

6 The second thing is my understanding is that you  
7 are privy to information about CedarCrestone in the form of  
8 the Fees' declaration. So if that's an open question, we  
9 should discuss that.

10 But it is hard to believe that -- I know that  
11 defense counsel wants to make this seem of a piece with  
12 other things. It isn't.

13 It's hard to understand how they thought we  
14 could present a damages case without answering this  
15 question when the question is also contained within the  
16 experts' reports.

17 So I am -- you know, we're open to Your Honor's  
18 suggestions about how we can clarify this for the jury. We  
19 are not suggesting that we are putting on a full case about  
20 TomorrowNow through our experts. We would limit it in the  
21 way that I discussed.

22 MR. WEBB: One other thing, Judge.

23 The CedarCrestone declaration that counsel  
24 referred to, it was in 2013. We've heard all day about  
25 stuff that happened in 2012 which is beyond the cutoff Your

1 Honor made very clear to everyone, yet we heard on  
2 Mr. Maddock's examination 2012 coming up repeatedly.

3 So -- and now the CedarCrestone is 2013.

4 The point is --

5 THE COURT: Fill me in on the declaration you're  
6 talking about. I'm not familiar with it.

7 MR. RECKERS: Your Honor, I have more  
8 information on that.

9 In this case, we have identified CedarCrestone  
10 in a couple different ways, including as proof of industry  
11 practice.

12 We submitted, if you recall, some material about  
13 CedarCrestone in opposition to Oracle's first motion for  
14 summary judgment.

15 What happened during discovery was both parties  
16 took a deposition, one deposition conducted by Oracle's  
17 counsel and myself where we asked questions about industry  
18 practice.

19 As part of our case, our willfulness, in  
20 particular with Mr. Hilliard, talked about what  
21 CedarCrestone, who is Oracle's partner, was doing was  
22 exactly the same as Rimini Street.

23 So we have that evidence. It was approved by  
24 Your Honor in connection with -- at least considered with  
25 the first motion for summary judgment, and Mr. Hilliard

1 will be allowed to, pursuant to your Court's order, testify  
2 about industry practice.

3 What happened was after the discovery closed  
4 CedarCrestone and -- Oracle sued CedarCrestone, the similar  
5 complaint as in this case. They settled the case.

6 On the same day at the settlement Mr. Fees, who  
7 is another executive at CedarCrestone, this is in 2013 now,  
8 signed a declaration basically recanting all the deposition  
9 testimony that we received in the case.

10 We moved to compel before Judge Leen the  
11 information about that settlement and that declaration. We  
12 were told no, discovery is closed.

13 As part of Judge Leen's order, Judge Leen's  
14 order setting the discovery cutoff that we've talked about,  
15 the close of fact discovery, we were not permitted further  
16 inquiry into TomorrowNow.

17 So from our position, the CedarCrestone position  
18 should be frozen, like everything else in this case, as of  
19 what we received in discovery.

20 The Fees' declaration, which is on Oracle's  
21 exhibit list now, should not be entered into evidence. It  
22 is just outside the scope, like so much of the 2013, 2014  
23 subject matter.

24 MS. DUNN: Your Honor, this is what's known as a  
25 red herring.

1           We are not suggesting that we would enter the  
2           declaration into evidence unless defense counsel decided on  
3           their own to open the door.

4           The suggestion is that Mr. Yourdon will say he  
5           was instructed by counsel, which is true, in the  
6           preparation of his report for this case, which is well  
7           within the ambit of what he should be allowed to testify  
8           to, to consider CedarCrestone an infringing alternative.

9           Honestly, this is a reasonable proposal that we  
10          thought out with respect to what the defense are now  
11          raising.

12          And if they chose then to ask Mr. Yourdon, I'm  
13          not sure why they would, but maybe they would, why he  
14          decided to consider them an infringing alternative, that  
15          would open the door. But that is their decision, it is not  
16          our decision.

17          One other thing is that we just learned that  
18          they anticipate Mr. Hilliard to speak about CedarCrestone.

19          So these are issues that they have put  
20          themselves before the jury. With regard to TomorrowNow,  
21          they've argued that the -- that a number of customers have  
22          left Oracle and many of them went to TomorrowNow.

23          And so what they want is for the jury to assume  
24          that TomorrowNow was a valid, competitive alternative when  
25          we all know that they weren't.

1           And, frankly, our proposal is quite conservative  
2 about a way to get from here to there and still be able to  
3 put on our damages case.

4           I do have a copy of the Fees' declaration if  
5 that's interesting, but, again, it's not something that  
6 we're suggesting.

7           THE COURT: Summarize your proposal again,  
8 please.

9           MS. DUNN: Well, at least with regard to  
10 Mr. Yourdon -- and I would like to let Mr. Isaacson speak  
11 to Ms. Dean as she is his witness, and Mr. Yourdon is mine.

12           He is going to talk about the various  
13 alternative third-party support providers. Two of those  
14 are TomorrowNow and CedarCrestone.

15           My plan is to ask him why he didn't consider  
16 these among others to be viable alternatives or reliable  
17 alternatives to Rimini Street, and the answer with regard  
18 to CedarCrestone is, "I was instructed by counsel that  
19 CedarCrestone was an infringing alternative."

20           And the answer with regard to TomorrowNow is the  
21 same, although it's not -- I don't believe he was  
22 instructed necessarily by counsel, but he did consider  
23 them, based on what he knew, to be an infringing  
24 alternative.

25           MR. ISAACSON: We just have the same issue with

1 Elizabeth Dean, Your Honor, although she would talk about  
2 some other issues with CedarCrestone.

3 But the -- you know, since the law says that you  
4 have to have a noninfringing alternative, we have to -- as  
5 Ms. Dunn said, we need guidance as to how to present it for  
6 those two companies.

7 And Ms. Dunn has the declaration and can read  
8 you the paragraphs that were made under oath.

9 MR. WEBB: One thing, Judge --

10 THE COURT: Excuse me. Let me stay on that  
11 subject for a minute.

12 And, Ms. Dunn, your reference there?

13 MS. DUNN: I'm sorry. I couldn't hear you.

14 THE COURT: The declaration?

15 MS. DUNN: Yes. So I have it in front of me,  
16 and I can either read you the part or I can pass it up,  
17 Your Honor.

18 And it's Exhibit 5365 for anyone who might be  
19 looking for it.

20 THE COURT: All right.

21 Mr. Webb?

22 MR. WEBB: We have no intention whatsoever of  
23 referencing TomorrowNow or CedarCrestone as noninfringing  
24 alternatives. That's not going to happen.

25 The moment they say they're infringing, the jury

1 will assume there's been some judge or some jury somewhere  
2 that found them to be infringing.

3 The nuance that counsel instructed me will be  
4 totally lost, Judge. They simply won't connect the dots  
5 and conclude it's something less than a judicial finding of  
6 infringement.

7 And at least as it pertains to TomorrowNow, they  
8 will again connect the dots and say, well, okay, well, if  
9 TomorrowNow has been found by a judge or a jury to  
10 infringe, it must infringe here because Rimini Street  
11 apparently is the same thing.

12 We are -- I don't want us to say, Judge -- I  
13 don't think there's any way to thread the needle and call  
14 these two different companies infringing without severely  
15 and unfairly prejudicing my client.

16 THE COURT: I'll give you a ruling in the  
17 morning.

18 MR. WEBB: Thank you, Judge.

19 MS. DUNN: Thank you, Your Honor.

20 THE COURT: All right. Now, let's get back to  
21 Mr. Grigsby.

22 MR. POLITO: So I think Your Honor wanted to  
23 review the video?

24 THE COURT: Yes, please.

25 MR. POLITO: And just to confirm, you want to

1 view the whole thing?

2 THE COURT: Pardon?

3 MR. POLITO: My understanding is you want to  
4 view the entirety of the video, or just the disputed  
5 portion?

6 THE COURT: How long does it take?

7 MR. POLITO: Twenty-six minutes and a half.

8 THE COURT: Well, is there a point in time where  
9 you have covered everything that you think bears upon the  
10 objections at issue and we can just cut it off at that  
11 point?

12 MR. DYKAL: Can I just say in the interest of  
13 saving time, if the only reason counsel wants to bring this  
14 in is to challenge Mr. Grigsby's character for  
15 truthfulness, that's only appropriate if he puts his  
16 character for truthfulness at issue. That has not been  
17 established. It's irrelevant to this case. It's  
18 prejudicial.

19 THE COURT: I don't want argument now. I want  
20 to hear -- I want to understand the issue.

21 MR. DYKAL: Sure. I'm sorry.

22 THE COURT: My only question is can we play  
23 something, play the video in some kind of a short fashion  
24 so that I can at least develop a sense of what the dispute  
25 is all about.



1           MR. POLITO: The dispute basically is the end of  
2 the video, and I think we can probably back it up a little  
3 bit and play the last portion of the video. I would guess  
4 it's about 10 minutes.

5           Maybe Mr. Dykal and I can take two seconds and  
6 agree on a starting point? Is that all right with Your  
7 Honor?

8           Is that all right? Or we can watch the whole  
9 thing. It's up to you.

10          THE COURT: Let's see if you can do that.

11          I need to alert you I've got another hearing at  
12 three o'clock. It will probably take a half hour.

13          Well, let me know as soon as you're ready on  
14 this and I'll come back in and we'll get as far as we can.

15          MR. POLITO: Your Honor, we think we can just --  
16 we can start at -- right at the objectionable part, and  
17 that will keep it nice and short, your Honor, or the part  
18 to which they're objecting, I should say.

19          THE COURT: All right. But I want a little of  
20 the beginning part just so I can have a personal sense of  
21 where this witness comes into the case.

22          MS. DUNN: Your Honor, for the purposes of  
23 efficiency, I just wanted to ask you, I think you might  
24 have wanted me to read part of the Fees' declaration into  
25 the record, but to save you time, would you like me to hand

1 this up to you. Is that helpful?

2 THE COURT: Yes, uh-huh.

3 MS. DUNN: Okay.

4 THE COURT: Counsel, I also assume you must have  
5 the text of this particular deposition testimony. I would  
6 appreciate a copy.

7 MR. POLITO: We do, Your Honor.

8 THE COURT: All right. Go ahead.

9 (Videotape deposition of Ray Grigsby played  
10 as follows:

11 PAGE 5:01 TO 5:03 (RUNNING 00:00:04.906)

12 "Would you please state your full name for the record.

13 A. Sure. Ray C. Grigsby, Jr.

14 PAGE 16:11 TO 16:21 (RUNNING 00:00:33.287)

15 Q. Now, you said all of these nine local copies of JD  
16 Edwards software that are on Rimini systems were  
17 created...

18 Q. When did you start at Rimini  
19 Street?

20 A. I was hired late September 2009.

21 Q. What was your job title at that  
22 time?

23 A. Vice president of the JD Edwards practice.

24 Q. Has that changed since  
25 September 2009?

1 A. No, sir.

2 Q. Who did you report to in September 2009?

3 A. I report to Brian Slepko, who's senior VP of global  
4 operations.

5 Q. And you've reported to him since you started your  
6 employment?

7 A. Yes, sir.

8 Q. Has your job description changed at all since you  
9 started?

10 A. No.

11 Q. And what is your job description?

12 A. My job description is to manage the JDE practice,  
13 working with sales and marketing to grow the JD  
14 Edwards practice globally. I'm also in charge of  
15 trying to recruit and grow it internally in terms of  
16 services we provide, ensuring that we have proper  
17 methodologies and procedures in place, and basically  
18 running the P&L to achieve margins.

19 PAGE 87:13 TO 87:20 (RUNNING 00:00:25.486)

20 Q. The first question is, looking at the first page of  
21 Exhibit 180, can you explain why, if the Medtronic  
22 environments were created in 2008 and not used, this  
23 document is being created on what appears to be June  
24 15, 2009?

25 Based on my investigation and research, no, I can't

1 explain that.

2 PAGE 119:21 TO 120:04 (RUNNING 00:00:17.298)

3 MR. HOWARD: Let's mark as Exhibit 185 an email chain  
4 at the top from JR Corpuz to Dennis Chiu with a  
5 copy to Michael Kerr and Bobby  
6 Parmalee dated June 8, 2009.

7 (Whereupon, Grigsby-Exhibit 185,  
8 email chain, Bates RSI00347464 to -481,  
9 was marked for identification.)

10 PAGE 120:07 TO 120:12 (RUNNING 00:00:14.879)

11 Q. Let me direct you to the second page of Exhibit 185,  
12 which is an email between Michael Kerr to Dennis Chiu,  
13 with a copy to Lourdes Medina, dated June 8, 2009.

14 Do you see that?

15 A. Yes.

16 PAGE 120:16 TO 120:24 (RUNNING 00:00:19.137)

17 Q. He says: Dennis, I am planning a JDE install for  
18 Medtronic support system contract compliance. I will  
19 need some ISO CD images of their software.

20 He says: To start the process, can you get me a list of  
21 all the CDs we have in archive for them?

22 Do you see that?

23 A. Yes, sir.

24 PAGE 121:23 TO 122:02 (RUNNING 00:00:09.182)

25 Q. Does it now appear to you that an additional

1 Medtronic environment was created in June of 2009?

2 A. Based on the information you provided me, yes.")

3 MR. POLITO: And so, Your Honor, this deposition  
4 goes on to talk about he was a 30(b)(6) and he couldn't  
5 explain all of the evidence we had of additional JD Edwards  
6 installations that Rimini Street hadn't admitted to or  
7 agreed to.

8 So now we get -- even though he was up to  
9 explain an agreed list of environments, he couldn't explain  
10 where they were, where the ones that we kept finding but  
11 they didn't admit to.

12 So now if we jump to the end, I think we have  
13 enough context.

14 MR. DYKAL: But, again, it's like this. He  
15 started 2009, he said I just don't know. So just to  
16 clarify.

17 THE COURT: All right.

18 (Videotape deposition of Ray Grigsby played  
19 as follows:

20 PAGE 291:14 TO 291:22 (RUNNING 00:00:09.772)

21 "Q. Mr. Grigsby, I'm going to mark as Exhibit 213 an  
22 email from you to Brian Slepko dated October 10, 2009  
23 attaching a sales presentation.

24 - - -

25 (Whereupon, Grigsby-Exhibit 213,

1 email, with attachments, Bates

2 RSI03112035 to -290, was marked for

3 identification.)

4 PAGE 291:24 TO 294:23 (RUNNING 00:03:10.185)

5 Q. Mr. Grigsby, do you recognize what's been marked as  
6 Exhibit 213?

7 A. Yes, I do.

8 Q. What is it?

9 A. It's a presentation that I gave to Brian when I  
10 first came on board to help him understand the JDE  
11 software just as he was understanding it. And this was  
12 a sales presentation that they intended for me to give  
13 as an introduction on what is JDE software.

14 Q. And is this a presentation that you prepared?

15 A. Yes, sir.

16 Q. Did you have any help preparing it?

17 A. If I remember back to 2009, I'm sure I did have help  
18 from my team.

19 Q. Did you prepare it while you were at Rimini Street?

20 A. Yes, sir.

21 Q. How long after you began at the company did you send  
22 this email to Mr. Slepko attaching this presentation?

23 A. I had joined the company in September. This was set  
24 in October.

25 Q. How long did it take you to prepare this

1 presentation?

2 A. I couldn't say, sir. I mean, there's a lot of  
3 presentations I prepared for Mr. Slepko and the sales  
4 team, but ...

5 Q. This is almost a hundred pages, right?

6 A. Yes.

7 Q. Did you agree, it has detailed technical information  
8 in it?

9 A. Does it have detailed, technical information in it?

10 Q. Yes.

11 A. It has flow of all the modules.

12 Q. Did you use any sources in preparing this?

13 A. Could you clarify "sources"? What do you mean?

14 Q. Any sources.

15 A. Yes, I used a lot of sources of things I got from  
16 some of -- some of it was blogs, some of it was Qwest  
17 presentations that I had from years past, some of it  
18 was material that I had from other public  
19 presentations.

20 Q. Did you write all of the content in these slides?

21 A. Did I write all the content?

22 Q. Yes.

23 A. I didn't create every slide, no, sir.

24 Q. Where did you get them if you didn't create them?

25 A. Like I said, there was many sources. Some are --

1           Andy Klee has a blog and a website. I've been to many,  
2           many Qwest classes, collaborate classes. I actually  
3           purchased Oracle Open World documents in my -- years  
4           past. So it was all material that I either purchased or  
5           got publicly off the web.

6           Q. How did you purchase Oracle Open World documents?

7           A. Years ago, when I was a business partner, I was  
8           allowed to attend Oracle. And if you paid for Oracle  
9           documents, you'd get presentations.

10          Q. Were you allowed to use those documents to compete  
11          against Oracle with third-party providers?

12          PAGE 295:01 TO 295:17 (RUNNING 00:00:47.584)

13          A. No.

14          BY MR. HOWARD:

15          Q. But you nevertheless used those documents, in part,  
16          to prepare this presentation, Exhibit 213?

17          A. I used public -- documents that were public that I  
18          had in my domain, yes, sir.

19          Q. And, in fact, isn't it true that you simply copied  
20          an Oracle document to create this presentation?

21          A. This was not an Oracle document. I've never had a  
22          sign-on --

23          MR. HOWARD: Let's mark as Exhibit 214 a presentation  
24          titled JD Edwards EnterpriseOne Process Models.

25          PAGE 295:19 TO 298:12 (RUNNING 00:02:19.371)



1 (Whereupon, Grigsby-Exhibit 214,  
2 JD Edwards EnterpriseOne Process Models,  
3 Bates RSI03118309 to -403, was marked  
4 for identification.)

5 - - -

6 BY MR. HOWARD:

7 Q. Mr. Grigsby, do you recognize what's been marked as  
8 Exhibit 214?

9 A. Yes, I do.

10 Q. What is it?

11 A. It looks like an Oracle presentation.

12 Q. From your files; is that correct?

13 A. From my files?

14 Q. Yes, sir.

15 A. You'd have to tell me if that came from my past hard  
16 drive from another --

17 Q. It was produced from your files in this case.

18 A. Okay. Yes, then it is.

19 Q. Okay. And you agree that's an Oracle presentation?

20 A. Yes.

21 Q. Can you look at the first page of that presentation  
22 and compare it to the second page of your presentation

23 --

24 A. Yes.

25 Q. -- that's Exhibit 213?

1 A. Right.

2 Q. Do you agree that appears to be a copy across the  
3 middle there?

4 A. Yes.

5 Q. Can you turn to the second page of Exhibit 214, the  
6 Oracle document, and compare it to the third page of  
7 your presentation at Exhibit 213. It would appear that  
8 that's a copy across the middle.

9 A. Yes.

10 Q. And that the words "financial management" appear on  
11 both slides?

12 A. Yes.

13 Q. And if you turn to the third page of the Oracle  
14 document, which is Exhibit 214, and compare it to the  
15 fourth page of your document, do you agree that that's  
16 an exact copy?

17 A. Yes.

18 Q. And did you, in fact, take the Oracle document,  
19 remove the Oracle bar, and insert the Rimini Street  
20 logo in your presentation that you gave to Mr. Slepko  
21 on October 20th, 2009?

22 A. Yes.

23 Q. Why did you do that?

24 A. Number one, I thought I had rights to that  
25 presentation because I purchased it. And, number two,

1 it was a presentation for Mr. Slepko.

2 Q. Who did you buy this presentation from?

3 A. I don't remember that, sir.

4 Q. What proof do you have that you purchased this  
5 presentation?

6 A. I don't know if I have any receipts that go back  
7 that far, that many years.

8 Q. Do you understand that this is an Oracle  
9 copyrighted document?

10 PAGE 298:15 TO 298:21 (RUNNING 00:00:17.698)

11 A. Yes, I see that. Yes, sir.

12 BY MR. HOWARD:

13 Q. Do you understand that it's improper and violates  
14 Oracle's copyrights to copy its documents as part of a  
15 sales presentation for a competitor to compete against  
16 it?

17 PAGE 298:24 TO 299:18 (RUNNING 00:00:35.375)

18 A. Yes.

19 BY MR. HOWARD:

20 Q. And you knew that at the time that you did this; is  
21 that true?

22 A. No.

23 Q. You know that now?

24 A. Yes.

25 Q. You have other documents from Oracle on your hard

1 drive, do you not, sir?

2 A. Yes, I do.

3 Q. You took those documents with you from Oracle when  
4 you left?

5 A. I never worked at Oracle, but I --

6 Q. You took documents from JD Edwards when you left JD  
7 Edwards.

8 A. Yes.

9 Q. And you knew that you weren't supposed to do that at  
10 the time.

11 PAGE 299:21 TO 300:16 (RUNNING 00:00:42.738)

12 A. No, I didn't know that at the time. I thought if I  
13 owned the documents, I could use the documents.

14 BY MR. HOWARD:

15 Q. You signed an employment agreement with JD Edwards,  
16 did you not, sir?

17 A. I'm sure I did, yes, sir.

18 Q. And that employment agreement contained language  
19 regarding the confidentiality of documents that came  
20 into your possession while working for JD Edwards?

21 A. Yes, sir.

22 Q. And it had restrictions on how you could use or  
23 possess those confidential documents of JD Edwards;  
24 isn't that true?

25 A. Yes.

1 Q. And so you knew when you left JD Edwards that it was  
2 improper and in violation of your employment agreement  
3 to take documents with you from JD Edwards, did you  
4 not?

5 PAGE 300:18 TO 301:02 (RUNNING 00:00:21.499)

6 A. Yes.

7 BY MR. HOWARD:

8 Q. And you've used those documents since leaving JD  
9 Edwards in various of your employments, including with  
10 Rimini Street; isn't that true?

11 A. Yes.

12 Q. And in some cases, those documents are draft  
13 documents that could not possibly be in the public  
14 domain.

15 PAGE 301:05 TO 301:05 (RUNNING 00:00:02.398)

16 A. I'd say no to that.

17 PAGE 301:06 TO 301:13 (RUNNING 00:00:17.499)

18 MR. HOWARD: Let's mark as Exhibit 215 a document  
19 copyright 2008, Oracle and its affiliates, with a  
20 watermark draft stamp.

21 - - -

22 (Whereupon, Grigsby-Exhibit 215,  
23 Oracle document, Bates RSI03107621 to  
24 -736, was marked for identification.)

25 PAGE 301:16 TO 302:19 (RUNNING 00:01:18.298)

1 Q. Mr. Grigsby, can you explain how Exhibit 215 came to  
2 be in your files?

3 A. I believe the way this was in my files is I have  
4 another drive that I had to provide counsel that was a  
5 backup drive. And in my previous life with a business  
6 partner, we had these documents for one of the business  
7 partners I worked at. And as such, that was on my hard  
8 drive -- or my external drive, which I made -- I gave  
9 to the attorneys for disclosure.

10 Q. How did you get this document?

11 A. I get this document -- one of my previous jobs. I  
12 either took a class or I had this document. I took many  
13 JDE classes. This specific document, I don't  
14 recollect.

15 Q. Would it surprise you to know that there's  
16 approximately 40,000 pages of Oracle documents in your  
17 files produced in this case?

18 A. Based on my past employment and the fact that I use  
19 that drive as a backup drive, no, it wouldn't surprise  
20 me.

21 Q. How many of those 40,000 pages would you estimate  
22 you took from JD Edwards with you when you left their  
23 employment with them?

24 A. There's no way for me to estimate that.

25 PAGE 302:20 TO 303:09 (RUNNING 00:00:26.980)

1 Q. Is it more than half?

2 A. No, sir, I would not say that.

3 Q. Would you say more than 10,000 pages?

4 A. I really don't know.

5 Q. Can you give me your best estimate?

6 A. No, because I haven't looked at it -- external  
7 backup drive for literally years.

8 Q. Did you download those documents from a specific  
9 location when you left JD Edwards to take with you?

10 A. Not to my recollection, no, sir.

11 PAGE 304:05 TO 304:24 (RUNNING 00:00:40.990)

12 Q. Do you from time to time go into your stash of  
13 Oracle documents and use them as part of your job at  
14 Rimini Street?

15 A. No, sir. That's a backup hard drive.

16 Q. Well, we know that you did in the case of the sales  
17 presentation that you sent to Mr. Slepko; isn't that  
18 right?

19 A. That is correct, yes, sir.

20 Q. All right. Are there other instances that you can  
21 recall, as you sit here, under oath, that you have from  
22 time to time used Oracle documents in the course of  
23 your work at Rimini Street?

24 A. Being that I've been with JD Edwards so far -- so  
25 long, I'd have to say yes, there probably was.

1 Q. You've done that from time to time?

2 A. Probably, yes, sir.")

3 MR. POLITO: That's the video, Your Honor.

4 THE COURT: All right. And, Mr. Dykal, your  
5 objections?

6 And can you direct me to the particular page  
7 that you're referring to from the transcript?

8 MR. DYKAL: Sure. It starts on page 291 -- oh,  
9 I'm sorry, page 7 of the document you have, Your Honor.

10 THE COURT: All right.

11 MR. DYKAL: Starting with, "Mr. Grigsby, do you  
12 recognize what's been marked as Exhibit 213," and this is  
13 the portion where he starts going into the sales  
14 presentation that had the Rimini logo and then where it  
15 came from.

16 And our base point is these documents were never  
17 identified in our discovery response. If they would have  
18 been, we would have explored it.

19 As we saw, he said that he thought he had the  
20 rights to it. We don't know whether or not that's true.  
21 Oracle had never identified that to us.

22 And, secondly, it's just not relevant to the  
23 issues in this case. It's obvious what's going on here.  
24 They want to put that in, it looks awful. You saw it.  
25 It's very prejudicial to my client, but it has no bearing



1 on the actual copyright issues in this case, and it's  
2 loaded with jargon.

3 It says, "Do you realize this is copyright  
4 infringement?" This guy is not a lawyer. He insinuates he  
5 stole trade secrets, he signed confidentiality agreements  
6 at JD Edwards. These are not in the case.

7 It's just completely prejudicial. They're  
8 trying to inflame the jury, and it just shouldn't belong  
9 here.

10 MR. POLITO: And, Your Honor, Mr. Maddock said  
11 that when he had technical questions he referred them to  
12 Mr. Grigsby. The clients -- the prospective clients who  
13 were thinking of coming to Rimini Street, this is the  
14 person who helped them decide whether to come.

15 So in addition to being part of the scope of  
16 injunction for our --

17 THE COURT REPORTER: I'm sorry. I can't  
18 understand you.

19 MR. POLITO: I'm sorry. I apologize.

20 So, in addition, it's related to the pattern and  
21 practice of misrepresentation, Your Honor.

22 MR. DYKAL: Your Honor, injunction is not a  
23 question for the jury. It just doesn't belong here.

24 THE COURT: Okay. I believe it's relevant.

25 I understand the defense concern, but I view it

1 simply as relevant evidence in this case, and relevant  
2 evidence tends to be admissible because it's damaging to  
3 the other side.

4 And I appreciate Rimini's position here, but I  
5 simply see it as relevant and being sufficiently relevant  
6 that it wouldn't be properly -- it shouldn't be properly  
7 excluded under Rule 403.

8 MR. DYKAL: I understand, Your Honor --

9 THE COURT: I will admit it. And your objection  
10 will be noted for the record.

11 And does your objection apply to the particular  
12 exhibits as well?

13 MR. DYKAL: Yes, Your Honor.

14 And just for clarity, does --

15 MR. POLITO: I'm sorry. The exhibits are all  
16 admitted, Your Honor. They are preadmitted.

17 MR. DYKAL: And for clarity, does that include  
18 those questions, "Do you understand this constitutes  
19 copyright infringement?"

20 "Do you understand you're violating your  
21 employment agreement?"

22 The gentleman was not a lawyer. There was no  
23 evidence that there actually was an employment agreement.  
24 There's no evidence that they do violate copyright.

25 So as to those specific questions, we would ask

1 Your Honor to consider whether those should be excluded.

2 THE COURT: My inclination is I would not  
3 exclude them, but I will look at that more carefully this  
4 evening.

5 MR. DYKAL: Thank you, Your Honor.

6 MR. POLITO: Thank you, Your Honor.

7 MS. DUNN: Your Honor, one last thing, which is  
8 that what we will endeavor to do tonight is to draft a  
9 judicial instruction on the previous issue that I raised  
10 and send it over to defense counsel. I just wanted to let  
11 you know that we were going to work on that.

12 THE COURT: I appreciate that.

13 MS. DUNN: Sure.

14 THE COURT: All right. Well, a long day. I'm  
15 sure everyone can use the break, And court will be  
16 adjourned. Thank you very much.

17 MS. DUNN: Thank you.

18 MR. POLITO: Thank you, Your Honor.

19 MR. DYKAL: Thank you, Your Honor.

20 (The proceedings adjourned at 2:37 p.m.)

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I certify that the foregoing is a correct  
transcript from the record of proceedings  
in the above-entitled matter.

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Donna Davidson, RDR, CRR, CCR #318 Official Reporter	9/24/15 Date

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